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of Special Importance—2003 d and Main Points



2003



Report of the
Auditor General
of Canada
to the House of Commons

NOVEMBER

Matters of Special Importance—2003 Foreword and Main Points

Government

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Office of the Auditor General of Canada



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Office of the Auditor General of Canada



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The November 2003 Report of the Auditor General of Canada comprises ten chapters, Matters of Special Importance—2003, a Foreword, Main Points, and Appendices. The main table of contents is found at the end of this publication.

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To the Honourable Speaker of the House of Commons:

I have the honour to transmit herewith my annual Report of 2003 to the House of Commons, which is to be laid before the House in accordance with the provisions of subsection 7(3) of the *Auditor General Act*.

Sheila Frager

Sheila Fraser, FCA Auditor General of Canada



Foreword



Report of the Auditor General of Canada to the House of Commons—November 2003

Foreword

I am pleased to present my annual Report for 2003. It contains Matters of Special Importance—2003 and the following 10 chapters:

Chapter 1 Information Technology: Government On-Line

Chapter 2 Accountability and Ethics in Government

Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research

Chapter 3 The Sponsorship Program

Chapter 4 Advertising Activities

Chapter 5 Management of Public Opinion Research

Chapter 6 Protection of Cultural Heritage in the Federal Government

Chapter 7 Human Resources Development Canada and the Canada Employment Insurance Commission—Measuring and Reporting the Performance of the Employment Insurance

Income Benefits Program

Chapter 8 Indian and Northern Affairs Canada—Transferring Federal

Responsibilities to the North

Chapter 9 Economic Development of First Nations Communities:

Institutional Arrangements

Chapter 10 Other Audit Observations

The Main Points of the chapters are reprinted at the end of this publication.

Matters of Special Importance—2003

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Sheila Fraser, FCA Auditor General of Canada

Introduction

- 1. This is my third annual Report to the House of Commons. I consider it a privilege to serve as Canada's tenth Auditor General. I feel deeply honoured to follow a long line of distinguished Auditors General who have served Parliament and Canadians so ably in the past.
- 2. The year 2003 marked another special anniversary for the Office of the Auditor General of Canada. It was 125 years ago on 1 August that a bill to establish an independent Auditor General came into force.
- 3. I very much appreciate the kind words and statements of support we received on the occasion of this anniversary from members of the House of Commons and the Senate, and from many senior public servants and international colleagues. It is gratifying to see the high regard in which the Office is held.

Public sector values and ethics

Public sector values and ethics need to be integrated into program management

- 4. In September we reported the results of our audit of the financial management and administration of the Office of the Privacy Commissioner of Canada. We found a major breakdown of controls over financial management, human resources management, contracting, and travel and hospitality. The situation resulted in significant financial and human costs and seriously impaired the ability of the Office of the Privacy Commissioner to function.
- 5. I was saddened at having to report events like this. I fear that they may be generalized unfairly as common occurrences across the public sector and shake the confidence that Canadians have in their federal public institutions. In my experience, excesses on this scale are by far the exception to the rule.
- 6. Still, our findings on the Sponsorship Program and on government-wide advertising activities are disturbing. Here, too, we found a frequent disregard for the rules and little evidence of value received for money spent. The irregularities we observed extended to Crown corporations and other agencies as well. The rules for contracting are not there just for the sake of having rules. They are central to maintaining the principles of accessibility, competition, fairness to suppliers, transparency, and best value—principles at the core of the government's contracting policy. We are arguing not that more rules are needed, but that existing rules need to be observed and consequences brought to bear when they are broken.
- 7. In both The Sponsorship Program (Chapter 3) and Advertising Activities (Chapter 4), we observed a breakdown in the proper conduct of public business at two levels: overall program management and the conduct of specific individuals. I am concerned that the attention focussed on wrongdoing by individuals could divert attention from the more serious,

pervasive problems that have a negative impact on how well programs are managed. While obviously unique, these cases raise important questions: How could situations like this occur? Why did it take so long to deal with them? They highlight the need for effective departmental controls and for improved oversight by central agencies and Parliament.

- 8. In Chapter 2, Accountability and Ethics in Government, we point out that the government needs to identify and act on the problems in its programs. We have recommended that it initiate independent, in-depth examinations of the root causes of problems in major programs to determine why they occurred. It should report the results to Parliament, along with the steps it is taking to prevent their reoccurrence.
- 9. In our 2000 Report, we indicated that the government needed to provide more vigorous and systematic support for a foundation of sound values and ethics in the public sector. It needed to develop a plan that would address values and ethics, and act decisively to implement it.
- 10. The government has since published guides to clarify the responsibility and accountability of ministers and secretaries of state as well as deputy ministers, and it has drafted an accountability framework for deputy ministers. In 2003, the government published its *Values and Ethics Code for the Public Service*, a statement to guide and support public servants in all their professional activities.
- 11. We reviewed these initiatives by the government and discuss the results in Chapter 2. These are necessary, positive steps. The values and ethical standards they embrace must now be translated into practice and integrated into public administration. We also examined values and ethics initiatives in a number of departments with substantial procurement or grants and contributions programs. We observed some progress by departments in developing and implementing these initiatives, but it is slow progress. Here, too, there is a need to explicitly integrate values and ethics in day-to-day decision-making.
- 12. Also, it should be clear that it matters when these values and ethics are not respected. Public servants and elected officials must be clear on what behaviour is unacceptable and must be reported and on what consequences will follow unacceptable behaviour.
- 13. Public sector values and ethics include fairness, honesty, and acting in the public interest. Parliamentarians, ministers, and public sector managers have a responsibility to actively promote an organizational culture that emphasizes these values and high ethical standards. It is important that they demonstrate these values and ethics in their behaviour and take action when others do not demonstrate them.

Parliamentary control over officers of Parliament

The unique environment of officers of Parliament

- 14. In his Report to Parliament in 1880, the first Auditor General indicated that, as necessary, he would report some issues on which he did not agree with the Executive. He said that the "greater part of the good which [the Auditor General] will accomplish will result from the prevention of irregularities by timely drawing attention to points which must be reported on adversely, if allowed to pass in the first instance."
- 15. Today, as then, the responsibility of the head of an organization that reports to Parliament is to ensure that the organization is strong and credible in the eyes of parliamentarians. One of the more troubling results of the events in the Office of the Privacy Commissioner of Canada has been the harm done to the credibility of the institution and its ability to serve Parliament.
- 16. Over the years, Parliament has created a special class of organizations generally described as "servants of Parliament" or "officers of Parliament." To serve Parliament effectively, these organizations have been given more independence from government oversight than regular departments and agencies. They are answerable to Parliament, not to a particular Cabinet minister, and have a considerable degree of flexibility to manage themselves. The officers of Parliament are
 - the Auditor General,
 - the Chief Electoral Officer.
 - the Commissioner of Official Languages,
 - · the Information Commissioner, and
 - the Privacy Commissioner.
- 17. Because of the considerable independence accorded them, these organizations have a special duty to carry out their mandates faithfully and honestly. In practice, they tend to come under less scrutiny and challenge than departments and agencies of government, whose ministers regularly appear before parliamentary committees. But officers of Parliament should be just as accountable for the prudent management of public funds. Given the events in the Office of the Privacy Commissioner, it seems clear that a different mechanism is needed to review the planned and actual spending of officers of Parliament, but without compromising their independence.
- 18. Like my predecessor, Denis Desautels, I have been uncomfortable for some time with the process for setting my Office's budget. At present, like almost all federal departments and agencies, my Office negotiates its budget with officials of the Treasury Board Secretariat of Canada. Although this has not affected our independence, I think that as a matter of principle the process should be changed to remove any possibility that undue pressure, real or perceived, could be placed on the Office.

19. At the same time, though, our budget and those of other officers of Parliament should be subject to rigorous review and challenge. As we have pointed out previously, the United Kingdom has a system that sets the audit office's budget by a recommendation made to the government by an all-party committee of members of Parliament. This puts the budgetary decision where it rightly belongs—with the members of Parliament to whom the Auditor General is responsible, rather than with public servants. Recently, we proposed to the Treasury Board Secretariat another possible mechanism for setting the Office's budget. We have suggested that an external blue ribbon panel review our Estimates and make its recommendation to the Treasury Board. The aim would be to ensure that our budget is scrutinized appropriately without compromising our independence. I would be very willing to pilot test this approach with my Office.

Continuing to increase our accountability

- 20. Members of Parliament, through the House's Standing Committee on Public Accounts, have an opportunity to hold us to account for the management of the resources entrusted to us. I am pleased that the Public Accounts Committee holds meetings regularly to review our reports on plans and priorities and our performance reports.
- 21. However, I am often asked, Who audits the Office of the Auditor General?
- 22. Our financial statements have been audited by an outside firm for years, and a copy of the auditors' report is now included in our Performance Report to Parliament. But this is not enough.
- 23. Members of Parliament and the public look to the Auditor General for independent, objective, and supportable information they can rely on to examine the government's performance and hold it to account.
- 24. In order to maintain their confidence, it is essential that we operate within our legislative authorities and adhere to established standards of professional practice. To provide assurance that we do so, we are committed to a regular and ongoing external assessment of our audit processes and practices to ensure that they are carried out with due regard to economy, efficiency, and effectiveness. To this end, an international external review of our value-for-money audit practice will be conducted in 2003–04.
- 25. The external review will be led by the National Audit Office of the United Kingdom. The review team will also include representatives from the national audit offices of France, Norway, and the Netherlands. The team will conduct an independent and objective review in a process that incorporates commonly accepted principles of performance auditing. The General Accounting Office of the United States will participate as an observer.
- 26. We will be the first national audit office to be reviewed by a team of international peers. We expect to receive the final report in early 2004. As part of promoting openness and transparency in government, we will make the results public immediately, including any recommendations for improvement.

Some reflections on the past year

27. From my perspective, the past 12 months saw some notable achievements and some disappointments.

Improved financial information

- 28. Parliament's ability to hold the government to account for its spending of public money is closely linked to the quality of the financial information available to parliamentarians. For some time, my Office has recommended that the federal government adopt a full accrual method of accounting. I am very pleased that it has now done so. This places Canada among the leaders, world-wide, in financial reporting by a national government.
- 29. Changing the accounting practices for a huge organization like the Canadian government was an enormous undertaking. Some have called it the biggest change in the federal government's accounting since Confederation in 1867. Many people in departments and agencies across the public service worked long and hard to make this happen. I congratulate the government for making this change a reality.
- **30.** Full accrual accounting provides a more complete measure of the government's overall size. It allows the government to present financial results on a widely recognized, more appropriate basis of accounting. The challenge now is to use this new accrual information effectively in management decision making. Managers will have proper cost information and better information on assets and liabilities. That means they can make better-informed decisions and manage resources more effectively.
- 31. Appropriations, however, remain on a predominantly cash basis. In my view, until appropriations are put on a common basis with government-wide and departmental budgeting and financial reporting, effective financial management and control will not be achieved.

Greater interest by parliamentary committees in review of Estimates

- 32. Last year my Report raised major concerns about the costs of the Canadian Firearms Program. During the four hearings it held on the Report, the Public Accounts Committee discussed the role of members of Parliament in reviewing and challenging the figures put forward in departmental Estimates.
- **33**. To assist committees in their review of the Estimates, in March 2003 my Office tabled "Parliamentary Committee Review of the Estimates Documents" (revised from the paper first issued in 1998).
- 34. We were invited to appear at three hearings before the Standing Committee on Government Operations and Estimates and one of its subcommittees, as well as the Standing Committee on Agriculture and Agri-Food.

- 35. Recently, members of Parliament have shown a greater interest in the review of the Estimates by committees. A number of standing committees have reported to the House of Commons on the Estimates, in some cases recommending reductions in the dollar amount of a vote.
- 36. An in-depth review of the Estimates has traditionally been a key means of holding the government to account for its spending plans. It is encouraging to see members of Parliament reassert their role in this process.
- 37. I am also pleased that committees continue to be interested in our work. In the past year, our Office participated in a record 52 hearings and briefings. Hearings generally focussed on value-for-money audits but also covered the *Public Accounts of Canada*, pending legislation, and our reports on our plans and priorities and our performance.

Gaps between federal environmental commitments and actions

- 38. This year's report by the Commissioner of the Environment and Sustainable Development highlighted once again the gaps between federal environmental commitments and actions.
- 39. The Commissioner's audit work this year found that the federal government needs to
 - actively work on meeting commitments to ensure that pesticides are safe,
 - be able to report the impact its activities in road transportation will have toward meeting Canada's Kyoto target, and
 - be clear about the results that its sustainable development strategies are achieving.
- 40. The Commissioner also looked at whether commitments made by federal departments and agencies in their responses to environmental petitions were met. Although action on commitments was uneven, the Commissioner's report confirmed that the petitions process promotes change and action.

Action by departments as a result of our reports

- 41. Parliamentarians and the public are also interested in knowing what steps the government has taken to make necessary improvements and whether problems raised in our audit reports have been fixed.
- 42. To provide this information to parliamentarians, we introduced the concept of a yearly status report devoted to setting out the actions the government has taken in response to previously reported findings and recommendations. We tabled our second Status Report in May 2003.
- 43. I was pleased in that Report to be able to say that the results were generally positive. Action had been taken, although not all problems had been resolved. We observed that progress in dealing with our findings and recommendations was satisfactory in four of the six audits followed up in that Report.

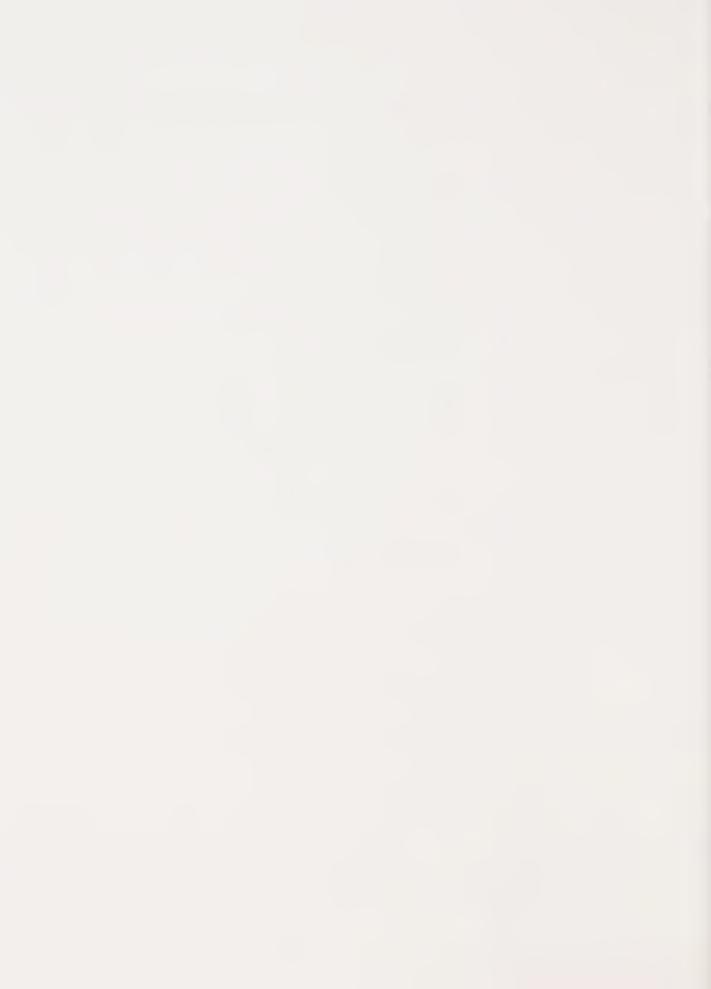
- **44**. I know that the natural tendency of the media is to focus on the problem areas we report. Consequently, the good news in our reports is overshadowed by the bad news. It is important to point out that departments do respond to our reports by acting on our recommendations and on the recommendations of parliamentary committees who hold hearings on our reports. Continued attention to areas of concern will result, over time, in improved management of government programs.
- **45**. We will continue this approach of in-depth follow-up of the most significant issues raised in past audit reports to the House of Commons. We will also continue to give credit for progress where credit is due.

Providing information to Parliament on program performance

46. One of the important roles of my Office is to provide information to parliamentarians that they cannot readily obtain otherwise. Chapter 6, Protection of Cultural Heritage in the Federal Government, pulls together information on issues facing our cultural heritage from the many different departments and stakeholders involved, not just the one or two largest players. I believe this provides Parliament with a better overall picture of program performance and brings to Parliament's attention that difficult choices are needed to protect our cultural heritage.

Conclusion

47. As Auditor General, I am conscious of how much I must rely on others to produce my reports and bring about improvement in the way programs are managed. I would like to recognize the enthusiasm and dedication of the staff of my Office. I would also like to acknowledge the excellent co-operation and assistance we received from the departments and agencies we audited, sometimes under trying circumstances. Finally, I want to express my appreciation for the work of the committees of Parliament who reviewed our reports and made recommendations to the government for improvements. With the combined efforts of these groups, I am confident that my Office will continue making a difference to Canadians.



Main Points

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Information TechnologyGovernment On-Line

Chapter 1 Main Points

- 1.1 In 1999 the government embarked on an ambitious initiative to deliver key services over the Internet to individuals and businesses by 2005. Progress has been made in putting information and services on-line, providing security and privacy safeguards, and improving accessibility. These steps lay a foundation for more service transformation—to fundamentally change the way the government operates and to deliver better service to Canadians. With two years remaining in the six-year Government On-Line (GOL) initiative, the government needs to devote immediate attention to dealing with some important risks. If it does not, GOL could become an expensive and underused vehicle.
- 1.2 The strategic planning process was successful in building commitment and creating understanding among those involved in such a large and complex initiative as GOL. However, the plan did not fully establish specific outcomes that are expected to be achieved by 2005 in terms of the overall GOL objective of full service transformation.
- 1.3 The government has established a governance framework for GOL projects under the direction of the Treasury Board Secretariat. The current framework has enabled the government to begin making the changes needed to deliver specific key services on-line by 2005. We also noted that significant investments are being made in other electronic service delivery projects. The government needs to strengthen the GOL framework to provide greater direction and leadership to achieve the overall objective of full service transformation.
- 1.4 Many difficult issues remain to be resolved before the GOL vision can become a reality. For example, many departments have developed only highlevel plans for service transformation and for dealing with the changes that will occur as a result of a shift to delivering services on-line. These departments have not developed detailed plans for dealing with matters such as staffing, determining take-up rates for on-line services, integrating their numerous information systems, and developing new business processes. The government must deal with these matters before it can realize any savings and efficiencies from GOL.
- 1.5 In late 2001, the government estimated that the cost of putting all key services on-line may be over \$2 billion, based on department and agency projections. The government has provided partial funding of \$880 million for implementing key services by 2005. Additional costs are expected to be funded by departments and agencies through internal cost savings, new

funding, and reallocation of funds. The GOL Project Management Office oversees the projects that have received direct GOL funding and it closely monitors progress and costs. However, the additional GOL-related costs funded by departments and agencies currently fall outside the direct control of the GOL Project Management Office.

Background and other observations

- 1.6 Since the mid 1990s, governments around the world have been working to tap the vast potential of the Internet to improve government processes. Recent research indicates a growing understanding that the services offered by governments on-line need to be those that deliver the greatest value to citizens and businesses. Governments face the considerable challenge of improving take-up rates to justify the large investment in the services. Several recent independent studies have concluded that Canada is among the world leaders in implementing on-line services.
- 1.7 However, while more GOL information is increasingly available, Parliament is not adequately informed about the cost and progress of either individual projects or the GOL initiative as a whole.
- 1.8 The government launched a series of pathfinder projects to test the feasibility of providing on-line services to Canadians. Our review of several pathfinder and GOL projects showed that some face major challenges, such as maintaining financial sustainability, transforming services, and marketing on-line services to encourage the public to use them.
- 1.9 The government considers that the Secure Channel project is critical for Canadians to conduct on-line business with the Government of Canada. The project would provide a common secure on-line infrastructure at an estimated development cost of over \$600 million. Implementation of some components of this project is behind schedule, and several major challenges, including long-term financing, must be addressed.
- 1.10 We examined GOL activities of the three main departments that deal most often with Canadian citizens and businesses—Human Resources Development Canada, the Canada Customs and Revenue Agency, and Industry Canada. Our audit indicated progress in implementing the GOL initiative across government and highlighted a number of issues and challenges that could help the government to set its GOL priorities for 2005 and beyond.

The Treasury Board Secretariat and the government have responded. The Treasury Board Secretariat, on behalf of the government, has provided detailed responses to each of the audit recommendations, outlining the actions it has already taken or intends to take to address these. The Secretariat indicates that Government On-Line is an ambitious and complex initiative aimed at improving services to individual Canadians and businesses and to international clients through the on-line delivery of the most commonly used federal services. A focus on citizen and client needs and a whole-of-government approach shape the government's activities and achievements to date. The government has continued and will continue to

manage this horizontal initiative in a flexible and collaborative yet prudent manner to ensure that centrally allocated GOL funds are soundly managed and that opportunities for improving services are pursued and risks are mitigated.



Accountability and Ethics in Government

Chapter 2 Main Points

- 2.1 Maintaining the trust of the public is a continuing challenge for government. In a large organization like the federal government, there are bound to be problems and failures, despite best efforts. Public trust in government erodes when there are actual or perceived significant problems in major government programs that could have been prevented or corrected. Over time, the cumulative impact of such events may lead Canadians to call into question the integrity of government as a whole.
- 2.2 The government has issued *Guide for Ministers and Secretaries of State*, *Guidance for Deputy Ministers*, a management accountability framework for deputy ministers, and a values and ethics code for the public service. According to the government, the publication of the documents is to help reaffirm the government's commitment to meet Canadians' expectations of the highest standards from their elected and non-elected officials. The documents deal with questions that are central to maintaining trust in government: What are the duties of ministers and deputy ministers and how and to what extent are ministers, deputy ministers, and officials to be held responsible and accountable for government actions in the 21st century?
- 2.3 We have concerns about the clarity of the documents and we have recommended that the government should further explain how it intends to turn the principles in the documents into action. We believe the documents provide an opportunity for Parliament to examine the appropriateness and effectiveness of some of the basic ways ministers and senior public servants can be held to account for their decisions.
- 2.4 The government needs to determine the root causes of major problems in government programs. We believe that the government, as an urgent matter, needs to initiate independent, in-depth studies to examine this issue and take steps to prevent their reoccurrence.
- 2.5 Departments responsible for major procurements and for grants and contributions programs are making slow progress toward establishing comprehensive values and ethics initiatives. The Treasury Board Secretariat needs to develop a model for comprehensive initiatives and set deadlines for departments to establish such initiatives.
- 2.6 We believe that public servants must have a robust, credible mechanism for addressing cases of wrongdoing. The government needs to act to address the concerns identified in the report of the Public Service Integrity Office, issued in September 2003.

Background and other observations

- 2.7 A sound basis of values and ethics is critical both to reduce the likelihood that there will be significant problems in programs and to ensure that when they do occur, problems will be dealt with properly. In our October 2000 Report, Chapter 12, Values and Ethics in the Public Sector, we recommended that the government take steps to address the need for maintaining public trust. Since then, as part of its ethics action plan, the government has
 - published official guides that describe the responsibility and accountability of ministers, secretaries of state, and deputy ministers;
 - developed a management accountability framework for deputy ministers; and
 - issued a code of values and ethics for the public service.
- 2.8 The guide, framework, and code establish principles for holding the government to account. There are still gaps that need to be addressed, however, and the principles will have to be translated into action.
- 2.9 The Clerk of the Privy Council stated in March 2003 that the public service's dedication to values and ethics must be unassailable and unwavering. We agree and we believe that leadership by both elected officials and senior public servants for values and ethics must be uncompromising.
- **2.10** If the government clarifies and successfully implements the principles in its guides and other initiatives, it will increase accountability and strengthen the organizational and cultural measures that support it. This will help to reduce the likelihood that major programs could go off track.

The Privy Council Office has responded on behalf of the federal government. Its response appears at the end of the chapter.



The Sponsorship Program

Chapter 3 Main Points

- 3.1 From 1997 until 31 August 2001, the federal government ran the Sponsorship Program in a way that showed little regard for Parliament, the *Financial Administration Act*, contracting rules and regulations, transparency, and value for money:
 - Parliament was not informed of the program's objectives or the results it achieved and was misinformed as to how the program was being managed.
 - Those responsible for managing the program broke the government's own rules in the way they selected communications agencies and awarded contracts to them.
 - Partnership arrangements between government entities are not unusual
 in programs of mutual benefit. However, some sponsorship funds were
 transferred to Crown corporations using unusual methods that appear
 designed to provide significant commissions to communications
 agencies, while hiding the source of funds and the true nature of the
 transactions.
 - Documentation was very poor and there was little evidence of analysis
 to support the expenditure of more than \$250 million. Over
 \$100 million of that was paid to communications agencies as production
 fees and commissions.
 - Oversight mechanisms and essential controls at Public Works and Government Services Canada failed to detect, prevent, or report violations.
- 3.2 Since Communications Canada's creation in September 2001, there have been significant improvements in the program's management, including better documentation and more rigorous enforcement of contract requirements.

Background and other observations

3.3 A new sponsorship program has been announced that, if properly implemented, will improve transparency and accountability. For example, the program will be delivered using contribution agreements with event organizers directly rather than contracts with communications agencies. Whatever mechanisms are used, Parliament needs to be assured that public funds are being administered in compliance with the rules and in a manner that ensures fairness, transparency, and the best possible value for money.

3.4 While this chapter includes the names of various contractors, it must be noted that our conclusions about management practices and actions refer only to those of public servants. The rules and regulations we refer to are those that apply to public servants; they do not apply to contractors. We did not audit the records of the private sector contractors. Consequently, our conclusions cannot and do not pertain to any practices that contractors followed.

The Privy Council Office, on behalf of the government, has responded. The entities we audited agree with the findings contained in chapters 3, 4 and 5. Our recommendations and the detailed responses appear in the Overall Main Points of the Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research booklet.



Advertising Activities

Chapter 4 Main Points

- 4.1 The Communications Coordination Services Branch (CCSB) of Public Works and Government Services Canada failed to meet its obligation to allow suppliers equitable access to government business and obtain best value in selecting advertising agencies. Most agencies were selected in a manner that did not meet the requirements of the government's contracting policy. In some cases, we could find no evidence that a selection process was conducted at all. CCSB officials disregarded the same rules and selected the same agencies as those in Chapter 3 of this Report, on the Sponsorship Program.
- 4.2 The government needs to ensure that officials in all departments possess the skills they need to meet their obligations and manage their advertising expenditures responsibly. Our audit found that some departments did poorly at carrying out their responsibility for ensuring that agencies complied with the requirements of contracts; other departments met their obligations without difficulty. Some departments did not require that communications agencies seek competitive bids on work they wanted to subcontract, nor did the departments challenge commissions charged by agencies or invoices submitted without adequate support.
- 4.3 The government's communications policy states that federal institutions must suspend their advertising during federal general elections. We noted that this aspect of the policy was properly implemented.

Background and other observations

- 4.4 Unlike the Sponsorship Program, for which CCSB was fully responsible, advertising responsibilities were shared. CCSB was responsible for selecting the agencies; individual departments were responsible for managing the advertising campaigns and ensuring that the contract terms and conditions were met.
- **4.5** The Privy Council Office provides strategic oversight and coordination for government advertising.
- 4.6 While this chapter includes the names of various contractors, it must be noted that our conclusions about management practices and actions refer only to those of public servants. The rules and regulations we refer to are those that apply to public servants; they do not apply to contractors. We did not audit the records of the private sector contractors. Consequently, our conclusions cannot and do not pertain to any practices that contractors followed.

The Privy Council Office, on behalf of the government, has responded. The entities we audited agree with the findings contained in chapters 3, 4, and 5. Our recommendations and the detailed responses appear in the Overall Main Points of the Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research booklet.



Management of Public Opinion Research

Chapter 5 Main Points

- 5.1 We found that public opinion research activity was managed with a certain degree of transparency. For the most part, roles, responsibilities, and procedures were clear.
- 5.2 However, in some cases departments did not establish a clear statement of the need for undertaking public opinion research. In a small number of troubling cases, we noted that the government had failed to follow its own guidelines in effect at the time and had paid for syndicated research that monitored, among other things, voting behaviour and political party image.
- 5.3 Many departments subscribed to the same studies, and Communication Canada, the mandatory service provider, did not take advantage of savings opportunities by co-ordinating bulk purchases of syndicated surveys.
- 5.4 The common service agencies and departments need to improve their management practices to ensure that value for money is obtained in public opinion research activities.

The Privy Council Office, on behalf of the government, has responded. The entities we audited agree with the findings contained in chapters 3, 4 and 5. Our recommendations and the detailed responses appear in the Overall Main Points of the Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research booklet.



Protection of Cultural Heritage in the Federal Government

Chapter 6 Main Points

- 6.1 Built, archival, and published heritage under the auspices of the federal government is exposed to serious risks of losses. This is because of deficiencies in various protection regimes, weaknesses in management procedures, and the combined effect of a decrease in protection expenditures and continued growth in heritage.
 - Built heritage is threatened. Many of the national historic sites administered by the Parks Canada Agency are showing signs of deterioration. This issue will have to be addressed in the next two to five years to prevent the permanent loss of elements that show the sites' historical significance, closure to the public, or rapid deterioration of the sites.
 - Archival heritage is at risk because federal departments have given little
 attention to information management in recent years. In addition, the
 National Archives of Canada has not yet succeeded in developing the
 tools needed to efficiently acquire government documents that may be
 of historic interest and archival importance.
 - Published heritage is at risk because the collections of the National Library of Canada are housed in buildings that do not meet accepted standards for temperature, humidity, and space for these types of documents. The Library's conservation practices cannot make up for the shortcomings of the physical infrastructure.
- 6.2 Parliament does not obtain complete, overall information on cultural heritage protection. The Department of Canadian Heritage and other heritage organizations' reports provide data on the condition of heritage and the possible risks and challenges. However, in general they do not contain information on the extent and the long-term implications of conservation problems and their meaning for Canadians. Moreover, these reports do not provide specific information on expected conservation results or those achieved.
- 6.3 The current protection regimes have reached their limits. The federal government needs to review the orientations and the means of protection needed and the role and responsibilities of the Department of Canadian Heritage and the other key heritage organizations in protecting cultural heritage. This review must take into account the current condition of heritage, its continual growth, the resources available, and the increased public interest in heritage issues. It should also aim to make federal parties that play a role in the protection of cultural heritage accountable.

Background and other observations

- 6.4 Cultural heritage means the tangible evidence of human experience, such as artifacts, archives, and printed material, and intangible evidence such as folklore, language, customs, traditions, and know-how. Protecting federal heritage assets requires the involvement of a number of parties. The Department of Canadian Heritage is responsible for developing policies governing heritage issues. Agencies within the Canadian Heritage portfolio, including the Parks Canada Agency, Canada's four national museums and their affiliated museums, the National Archives of Canada, and the National Library of Canada, have specific mandates for the protection of federal heritage. Several departments and other federal organizations also have protection responsibilities.
- 6.5 Our examination focussed on the areas that presented the most risk to the protection of cultural heritage: selection and conservation of national historic sites and federal heritage buildings, acquisition of federal archives, conservation of the collections of the National Library of Canada, identification of collections of federal government organizations, and identification of Canadian cultural property. We excluded the four national museums of Canada and affiliated museums from the scope of our audit. As Crown corporations, they are subject, every five years, to special examinations as set out in the *Financial Administration Act*. During the latest round of special examinations, which we undertook between 1998 and 2002, we examined whether the national museums had implemented systems and practices that enable them to protect specimen and artefact collections.

The federal organizations have responded. The Department of Canadian Heritage, the Parks Canada Agency, the National Archives of Canada, the National Library of Canada, and the Treasury Board Secretariat have agreed to our recommendations. Measures underway or planned are indicated in their responses. The departments and agencies have stated that they will co-operate with their partners to implement our recommendations and improve the protection of cultural heritage.



Human Resources Development Canada and the Canada Employment Insurance Commission

Measuring and Reporting the Performance of the Employment Insurance Income Benefits Program

Chapter 7 Main Points

- 7.1 The Employment Insurance (EI) Income Benefits program provided \$12.7 billion in benefits to Canadians for temporary income replacement in 2002–03. We looked at how program performance was measured and reported from two perspectives: service to Canadians and effectiveness.
- 1.2 Human Resources Development Canada (HRDC) puts considerable effort into measuring the performance of the EI Income Benefits program and has a good deal of information with which to manage it. However, aspects of performance are not measured or are not measured well. For example, the key measure for call centres does not give the whole picture of access to this service. It did not take into account that 65 percent of calls in 2002–03 resulted in the caller getting a busy signal when trying to speak to a service representative.
- 7.3 The available performance information tells a mixed story. In 2002–03, over 95 percent of total payments to claimants were correct, and a 2001 opinion survey showed that a majority of respondents were generally satisfied with the service they received. However, performance of key aspects of service varied considerably among regions—in particular, access to call centres and the quality and timeliness of the processing of claims. Service in some regions was significantly and chronically below performance targets. The numerous efforts to improve performance in meeting service targets have made only a small difference.
- 7.4 The Canada Employment Insurance Commission and HRDC have not yet provided Parliament with a comprehensive and clear picture of the impact of the 1996 changes to the *Employment Insurance Act*. While many effectiveness issues have been evaluated, certain key ones have not. Although Parliament is provided with more information on the EI Income Benefits program than is required of most programs, we identified issues that still need to be addressed when reporting to Parliament. Reporting of evaluation results is often selective. The Commission and HRDC have not clearly reported what savings have resulted from the changes to the Act in 1996. Nor have reports to Parliament described other important issues, such as the uneven service across the country for processing claims and what HRDC plans to do about it.

Background and other observations

7.5 Over the past 60 years, the EI Income Benefits program has been the main income security program for working Canadians. The principal

objective of this program is to provide temporary income support to insured Canadians who involuntarily lose their jobs. Over the years, the program has evolved, recognizing that workers face other employment risks related to childbirth, parenting, and illness.

- 7.6 Employment Insurance is paid for by workers and their employers. Over the past few years, the amount of premiums they paid has exceeded the amount of benefits paid out, and a surplus of \$43.8 billion is now credited to the EI Account. Our Office has brought the size of the surplus to Parliament's attention every year since 1999. The administrative costs of the program were \$1.5 billion in 2002–03.
- 7.7 The Minister of Human Resources Development is responsible for the program. The Canada Employment Insurance Commission has specific responsibilities under the *Employment Insurance Act*. HRDC helps the Minister and the Commission, and manages and delivers the EI Income Benefits program across the country.

Human Resources Development Canada and the Canada Employment Insurance Commission have responded. The Department and the Commission agree with our recommendations and have indicated in their responses the actions they have planned or that are underway to address the recommendations. An overall response is also provided at the end of the chapter.



Indian and Northern Affairs Canada Transferring Federal Responsibilities to the North

Chapter 8 Main Points

- 8.1 Signing a land claim agreement is a major accomplishment. Managing it afterward is an ongoing challenge that requires collaboration by all parties to the agreement. That collaboration must begin with Indian and Northern Affairs Canada (INAC) taking a leadership role in making the claims work. It must also manage federal responsibilities set out under the agreements in a way that achieves results. We found that with respect to the two claims we looked at, the Gwich'in people of the Northwest Territories (NWT) and the Inuit of Nunavut, INAC's performance on both counts has left considerable room for improvement.
- **8.2** For example, INAC seems focussed on fulfilling the letter of the land claims' implementation plans but not the spirit. Officials may believe that they have met their obligations, but in fact they have not worked to support the full intent of the land claims agreements.
- 8.3 Also, the various mechanisms for managing the claims are not effective in resolving all disputes. Land claims arbitration panels have not dealt with any of the long-standing disagreements since the claims were settled over 10 years ago.
- 8.4 In the Yukon, the federal government has successfully transferred many federal responsibilities for lands and resources to the territorial government. But INAC underestimated the time and resources needed to complete the task. It is important that it learn from the Yukon transfer experience as it enters similar discussions with the Northwest Territories.

Background and other observations

- 8.5 Over the last 30 years, Canada's North—the Yukon, Northwest Territories, and Nunavut—has taken a considerable leap forward in its political development. The Department has spearheaded an important initiative to transfer a significant portion of its northern responsibilities to the people of the North. In particular, the Government of Canada has transferred a considerable amount of its control over land and resources to the Yukon government, and it has concluded land claims agreements with many of the First Nations and Inuit across all three territories.
- **8.6** Once land claims agreements are signed, managing them well means focussing on not only meeting the specific obligations of the claims but also achieving measurable results against the objectives.

- 8.7 When the objectives are specific, all parties to the claims agreements can agree what constitutes results. However, when the objectives are openended and future-oriented, as some are in the claims we looked at, matching results with the specific legal responsibilities becomes difficult. When that happens, the mechanisms for managing the agreements—the implementation committees, the arbitration panels, and the accountability reporting—are not effective in bringing important issues to closure.
- 8.8 Furthermore, INAC's management framework, which measures success in terms of meetings, events, and activities held, as opposed to results achieved, is not effective. All are required.
- 8.9 In the Yukon, the recent devolution exercise saw the federal government transfer its management of lands and resources to the territorial government, the first transfer of such magnitude since a similar transfer to the Prairie provinces in the 1930s. The range of tasks to make this happen included changing legislation; facilitating the movement of federal employees to the Yukon government; and the transfer of properties, assets, records, and agreements.
- 8.10 We believe that the Department could have managed the process better. We also believe that it should take stock of its management of the Yukon exercise and apply the lessons learned to its upcoming devolution of responsibilities to the Northwest Territories.

The Department has responded. While the Department agrees with many of our recommendations, it fundamentally disagrees with our view of the way success for implementing land claims should be measured. The Department defines success as fulfilling the specific obligations as set out in the agreements and plans. We believe that results matter too, and that the Department should be giving them more attention.



Economic Development of First Nations Communities Institutional Arrangements

Chapter 9 Main Points

- 9.1 There are substantial gaps in key economic indicators such as employment and income between Aboriginal and non-Aboriginal people in Canada. Closing these gaps would help reduce poverty among Aboriginal people, resulting in lower social and financial costs. However, First Nations told us they face barriers to accessing natural resources and capital, to accessing federal business support programs, and to benefiting from federal institutional development programs. These barriers increase their costs of doing business and impede their economic development.
- **9.2** The First Nations we visited for the study use several good practices in their institutional arrangements to help overcome the barriers. These practices include developing a vision to guide economic development, establishing institutional arrangements to ensure that development is sustainable, and partnering with others to benefit from economies of scale and expertise.
- **9.3** The federal government is a key contributor to First Nations economic development through its programs and its regulatory functions. These programs have assisted many successful First Nations businesses and have helped develop some institutional arrangements.
- **9.4** However, federal support for institutional arrangements is not yet sufficient to help First Nations overcome barriers and take control of their economic development. Federal organizations need to
 - consolidate the administrative requirements and improve the adaptability of business support programs,
 - help First Nations identify and build consistent and fair institutional arrangements in a timely way, and
 - use a more horizontal approach for economic development programming.

Background and other observations

9.5 Research shows that institutional arrangements make a significant difference between achieving sustained economic success or continuing in poverty. Our study examined the institutional arrangements for economic development of selected First Nations and the role of the federal government in supporting those arrangements. The institutional arrangements we examined were the organizations, rules, and practices that structure economic interaction for reserve-based First Nations.

- 9.6 The Auditor General is not the auditor of First Nations. Our study was not intended to provide a comprehensive review of First Nations institutional arrangements for economic development; however, we wanted to reflect their perspectives. We sought the assistance of 13 First Nations and 4 tribal councils and governments in 5 provinces and they agreed to participate in the study.
- 9.7 The study also proposes criteria to test federal economic development programs.

The government has responded. The government agrees with the recommendations in the study. Its responses, included in the chapter, describe the actions it is taking and intends to take.



Other Audit Observations

Chapter 10 Main Points

10.1 This chapter fulfills a special role in the Report. Other chapters normally report on value-for-money audits or on audits and studies that relate to operations of the government as a whole. Other Audit Observations discusses specific matters that have come to our attention during our financial and compliance audits of the Public Accounts of Canada, Crown corporations, and other entities, or during our value-for-money audits or audit work to follow up on third-party complaints. Because these observations deal with specific matters, they should not be applied to other related issues or used as a basis for drawing conclusions about matters not examined.

10.2 This chapter covers new issues:

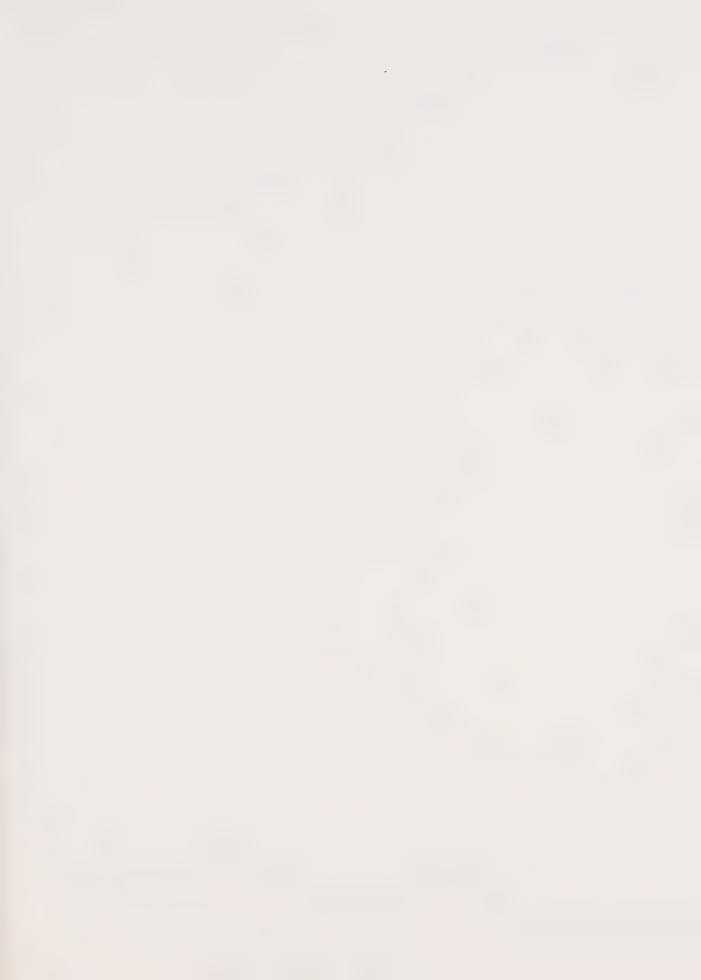
- Indian and Northern Affairs Canada—The Department needs to improve third-party intervention
- Government purchase of two Challenger aircraft—A \$101-million contract to purchase two Challenger aircraft for VIP travel did not demonstrate due regard for economy and bypassed expected practices
- Natural Resources Canada—Controls over contribution payments and scientific equipment needed
- Independent reviews of security and intelligence agencies—The
 activities of security and intelligence agencies are not subject to
 consistent levels of review and disclosure
- 10.3 The Standing Committee on Public Accounts has requested that we continue to bring to Parliament's attention previous observations that have not been resolved. In this Report, we follow up on two of these observations:
 - Parc Downsview Park Inc.—The government has initiated actions to address issues raised in our previous reports about the creation of an urban park
 - The surplus in the Employment Insurance Account—Non-compliance with the intent of the Employment Insurance Act

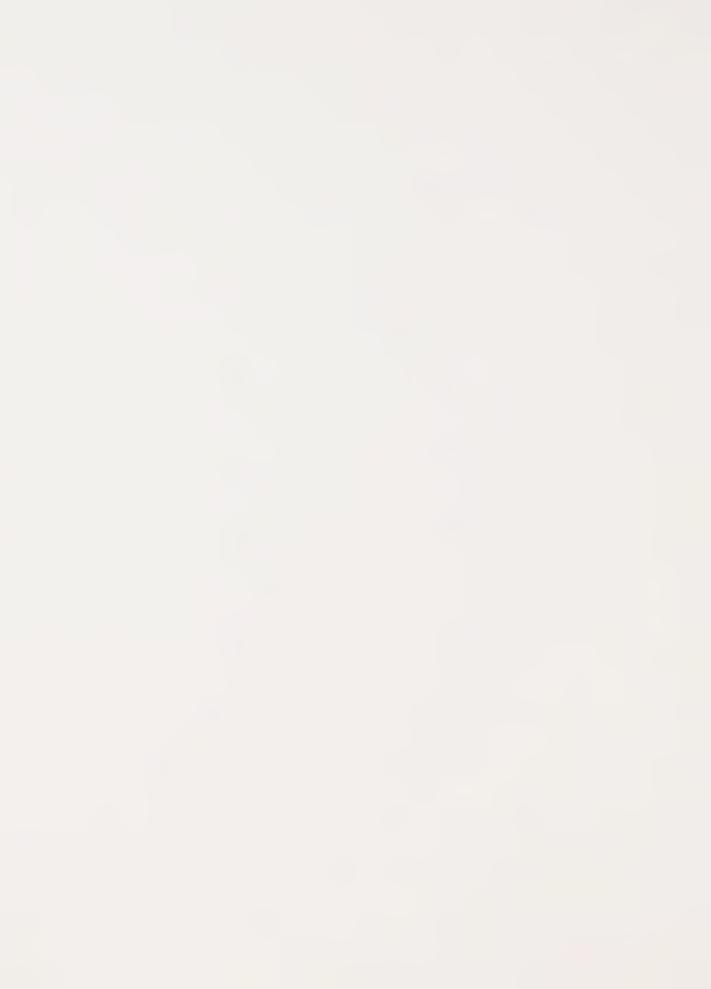
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2003



Report of the
Auditor General
of Canada
to the House of Commons

NOVEMBER

Chapter 1 Information Technology: Government On-Line







2003



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Chapter 1
Information Technology: Government On-Line







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The November 2003 Report of the Auditor General of Canada comprises ten chapters, Matters of Special Importance—2003, a Foreword, Main Points, and Appendices. The main table of contents is found at the end of this publication.

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Chapter

Information Technology

Government On-Line

All of the audit work in this chapter was co Canadian Institute of Chartered Accounta we also draw upon the standards and pract	nts. While the Office adopts these	tandards for assurance engag e standards as the minimum re	ements set by the equirement for our audits,

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Information TechnologyGovernment On-Line

Main Points

- 1.1 In 1999 the government embarked on an ambitious initiative to deliver key services over the Internet to individuals and businesses by 2005. Progress has been made in putting information and services on-line, providing security and privacy safeguards, and improving accessibility. These steps lay a foundation for more service transformation—to fundamentally change the way the government operates and to deliver better service to Canadians. With two years remaining in the six-year Government On-Line (GOL) initiative, the government needs to devote immediate attention to dealing with some important risks. If it does not, GOL could become an expensive and underused vehicle.
- 1.2 The strategic planning process was successful in building commitment and creating understanding among those involved in such a large and complex initiative as GOL. However, the plan did not fully establish specific outcomes that are expected to be achieved by 2005 in terms of the overall GOL objective of full service transformation.
- 1.3 The government has established a governance framework for GOL projects under the direction of the Treasury Board Secretariat. The current framework has enabled the government to begin making the changes needed to deliver specific key services on-line by 2005. We also noted that significant investments are being made in other electronic service delivery projects. The government needs to strengthen the GOL framework to provide greater direction and leadership to achieve the overall objective of full service transformation.
- 1.4 Many difficult issues remain to be resolved before the GOL vision can become a reality. For example, many departments have developed only highlevel plans for service transformation and for dealing with the changes that will occur as a result of a shift to delivering services on-line. These departments have not developed detailed plans for dealing with matters such as staffing, determining take-up rates for on-line services, integrating their numerous information systems, and developing new business processes. The government must deal with these matters before it can realize any savings and efficiencies from GOL.
- 1.5 In late 2001, the government estimated that the cost of putting all key services on-line may be over \$2 billion, based on department and agency projections. The government has provided partial funding of \$880 million for implementing key services by 2005. Additional costs are expected to be funded by departments and agencies through internal cost savings, new

funding, and reallocation of funds. The GOL Project Management Office oversees the projects that have received direct GOL funding and it closely monitors progress and costs. However, the additional GOL-related costs funded by departments and agencies currently fall outside the direct control of the GOL Project Management Office.

Background and other observations

- Since the mid 1990s, governments around the world have been working to tap the vast potential of the Internet to improve government processes. Recent research indicates a growing understanding that the services offered by governments on-line need to be those that deliver the greatest value to citizens and businesses. Governments face the considerable challenge of improving take-up rates to justify the large investment in the services. Several recent independent studies have concluded that Canada is among the world leaders in implementing on-line services.
- However, while more GOL information is increasingly available, Parliament is not adequately informed about the cost and progress of either individual projects or the GOL initiative as a whole.
- The government launched a series of pathfinder projects to test the feasibility of providing on-line services to Canadians. Our review of several pathfinder and GOL projects showed that some face major challenges, such as maintaining financial sustainability, transforming services, and marketing on-line services to encourage the public to use them.
- The government considers that the Secure Channel project is critical for Canadians to conduct on-line business with the Government of Canada. The project would provide a common secure on-line infrastructure at an estimated development cost of over \$600 million. Implementation of some components of this project is behind schedule, and several major challenges, including long-term financing, must be addressed.
- We examined GOL activities of the three main departments that deal most often with Canadian citizens and businesses—Human Resources Development Canada, the Canada Customs and Revenue Agency, and Industry Canada. Our audit indicated progress in implementing the GOL initiative across government and highlighted a number of issues and challenges that could help the government to set its GOL priorities for 2005 and beyond.

The Treasury Board Secretariat and the government have responded. The Treasury Board Secretariat, on behalf of the government, has provided detailed responses to each of the audit recommendations, outlining the actions it has already taken or intends to take to address these. The Secretariat indicates that Government On-Line is an ambitious and complex initiative aimed at improving services to individual Canadians and businesses and to international clients through the on-line delivery of the most commonly used federal services. A focus on citizen and client needs and a whole-of-government approach shape the government's activities and achievements to date. The government has continued and will continue to

manage this horizontal initiative in a flexible and collaborative yet prudent manner to ensure that centrally allocated GOL funds are soundly managed and that opportunities for improving services are pursued and risks are mitigated.

3

Introduction

1.11 In the context of Canada's federal government, Government On-Line (GOL) refers to making many government services available to citizens electronically, using Internet technology. One of the key principles of Government On-Line is that programs and services will be transformed to reflect the needs and expectations of clients and citizens. From the government's perspective, the overall objective of the GOL initiative is full service transformation—to fundamentally change the way the government operates and to deliver better service to Canadians.

The origin of the Government On-Line initiative

1.12 In the 1999 Speech from the Throne, the government stated: "By 2004, our goal is to be known around the world as the government most connected to its citizens, with Canadians able to access all government information and services on-line at the time and place of their choosing." The government believed that this vision, although ambitious, was achievable because a high percentage of Canadian households were already using the Internet (exhibits 1.1 and 1.2).

1.13 As stated in the Treasury Board Secretariat's August 2000 vision paper Government On-Line: Serving Canadians in a Digital World, "Government On-Line is the plan that supports the Prime Minister's commitment." It is a government-wide initiative that includes offering key federal government services over the Internet to all Canadian citizens and businesses. At the same time, the government will continue to provide these services by traditional means such as the telephone, mail, and personal contact. Although Canadians experiment more and more with the Internet, a significant number of people continue to use traditional methods to contact government departments and agencies (Exhibit 1.3).

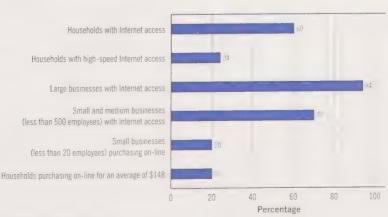
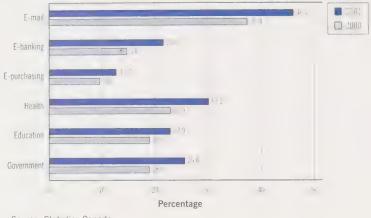


Exhibit 1.1 Key facts about Internet use in Canada in 2001

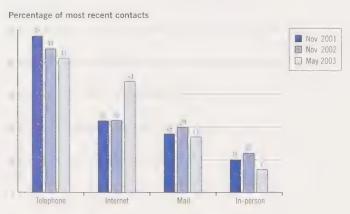
Source: Statistics Canada

Exhibit 1.2 How Canadians use the Internet at home



Source: Statistics Canada

Exhibit 1.3 How Canadians contact the federal government



Source: Permission granted by EKOS Research Associates

The objective for GOL (beyond 2005) is to provide easy and seamless access to services that may involve more than one government department or other levels of government. These services are expected to be provided securely, while protecting the confidentiality of information and users' rights to privacy.

International studies have benchmarked government on-line initiatives

The federal government takes great pride in the results of various studies that consistently rank Canada as a world leader in bringing on-line government to its citizens. These international studies, which have been carried out in the past few years by private and public sector organizations, have assessed both the progress that several countries have made in providing services via the Internet and their capacity to sustain on-line development. While we note that one study published in April 2003 by a private sector firm placed Canada in first place and another study by an international organization in 2002 ranked Canada sixth, we did not audit the results of these studies.

Focus of the audit

- 1.16 The objectives of our government-wide audit of GOL were to assess
 - whether the government had established adequate plans and strategies for achieving its GOL objectives for 2005,
 - whether appropriate accountability and reporting mechanisms have been established.
 - the extent to which GOL and pathfinder projects contributed to the overall GOL objective, and
 - the extent to which the government has dealt with key change management issues.

We also wanted to report specific areas within the departments and agencies that we examined where improvements are needed to meet GOL objectives.

- 1.17 We carried out our audit work primarily at the Treasury Board Secretariat, where the GOL Project Management Office is located; Public Works and Government Services Canada (PWGSC)—the manager of the Secure Channel project; the Canada Customs and Revenue Agency (CCRA); Human Resources Development Canada (HRDC); and Industry Canada. We chose HRDC and CCRA because of their extensive contact with Canadian citizens and Industry Canada for its dealings with Canadian businesses.
- 1.18 More than four years have passed since GOL was announced in the 1999 Speech from the Throne; about two years remain before the initiative, as originally planned, is expected to be completed. Thus, our observations and recommendations are aimed at alerting the government to various risks that threaten GOL. They point to the need to devote immediate attention to certain important aspects of the initiative.
- 1.19 Further information about the audit can be found at the end of the chapter in **About the Audit.**

Observations and Recommendations

The GOL vision and plan

- 1.20 In February 2000, the Treasury Board Secretariat released a strategic document, A Framework for Government On-Line. The framework established high-level objectives and an approach for meeting the government's 2004 target date for delivering services. In the December 2001 federal Budget, the government moved the 2004 deadline to the end of 2005 to make way for the heightened security agenda.
- 1.21 GOL is primarily a service transformation initiative that includes three tiers (Exhibit 1.4). Tier 1 involved establishing a strong federal presence on the Internet by 31 December 2000. The second tier would deliver secure,

interactive electronic services by 2005. The government considers service transformation key to achieving Tier 2 objectives and indicates that this tier offers a renewed opportunity to provide the best possible service to clients. It provides departments and agencies the opportunity to fundamentally rethink how they organize themselves and how they deliver services to their clients. Tier 3 would provide for leading-edge pilot projects to validate new technologies or to support interjurisdictional service offerings. As Tier 3 is ongoing and has no fixed deadline, it is apparent that the GOL initiative and service transformation will extend beyond 2005.

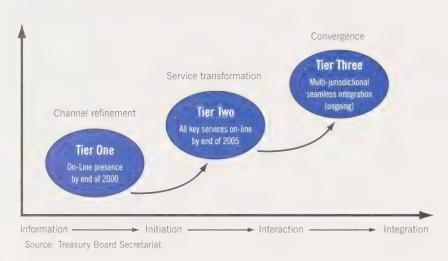


Exhibit 1.4 The three phases of the Government On-Line initiative

- 1.22 In the February 2000 Framework, the government made the following commitment: "...Citizens will continue to have the choice of in-person, mail, telephone, or electronic modes of access. The shift to secure electronic services will improve choice and overall service levels to Canadians." In effect, GOL represents another channel or method for serving the public.
- 1.23 The government initiated a number of pathfinder projects to test the feasibility of providing services electronically. Subsequent GOL projects were approved to help departments accelerate the delivery of their on-line services. To date, \$262 million has been allocated to 121 GOL projects, some of which are still in progress.
- 1.24 In March 2000, the Chief Information Officer Branch of the Treasury Board created a GOL Project Management Office to co-ordinate on-line efforts throughout the government. GOL is a complex initiative that relies on an elaborate governance structure; its participants range from Treasury Board ministers to various working groups that support the GOL effort. The Government Telecommunications and Informatics Services Branch of Public Works and Government Services Canada is responsible for delivering the GOL technology infrastructure and heads the Secure Channel project. At the same time, departments and agencies have been busy developing and implementing their own GOL initiatives.

Secure Channel project — A multidepartmental effort led by the Treasury Board Secretariat. Its primary goal is to provide highly secure, responsive, and economical access to government services by citizens and businesses

The strategic plan built commitment for GOL but did not establish sufficiently detailed expected outcomes to guide the initiative

- 1.25 The process used to plan for GOL was inclusive, consultative, flexible, and iterative; thus it incorporated many of the best practices expected for a large and complex horizontal initiative. There is value in such a process, such as building commitment and creating understanding among those involved; however, for such a large and complex initiative as GOL, the process alone is insufficient to ensure accountability and track progress. Thus, the strategic plan itself is equally important to the initiative's success. It allows for measurement against milestones and it creates a communication vehicle and a framework from which others, not involved directly in the planning process, can understand what is required to undertake GOL-related activities.
- 1.26 The government has a well-defined vision for GOL. However, it lacks a single, consistent, and comprehensive document to follow up on the vision and provide a foundation for achieving it.
- 1.27 We expected that the government would have developed, within a year after the throne speech, a strategic plan that articulated both high-level and detailed expected outcomes, identified the resources required, and analyzed the cost of achieving the expected outcomes and vision (see Elements of a strategic plan). However, this was not the case.
- 1.28 Our review of internal planning documents indicated that by the end of 2000, the government had identified only high-level expected outcomes for the GOL initiative. These outcomes involve having a complete on-line presence for all government departments and agencies by the end of 2000 and having 50 percent of key federal programs and services available on-line by the end of 2002 and 100 percent by the end of 2004.
- 1.29 In November 2000, 27 departments and agencies identified some 693 key services. By April 2001, the Treasury Board Secretariat had narrowed the list to 205 key information and transactional services, using criteria such as impact on clients and size of service. On-line delivery of key services was identified as an objective for the end of 2004. However, what was meant by

Elements of a strategic plan

A clear and thorough strategic plan is a critical element in planning complex, costly initiatives such as GOL. Typically, such a strategic plan would include the following:

- · clearly stated vision that an organization or project should focus on achieving;
- · clear definition of the stages for realizing the vision;
- specific, measurable, achievable, relevant, and time-limited expected outcomes
 that provide a focus for working toward achieving particular results (managers use
 these to show what has been achieved for money spent);
- high-level direction or means to be pursued in achieving the expected outcomes;
 and
- · the financial and people resources to be used to put the plan into effect.

- "services available on-line" was not clarified at that time. Further, there were no specific, measurable expected outcomes to clearly define when the GOL initiative would be complete and what it would comprise.
- 1.30 The initial planning documents that we reviewed recognized that investments would be needed to achieve the GOL targets. Planning began in late 1999, and by the fall of 2000 the Treasury Board Secretariat had an initial estimate of what GOL might cost. In late 2000, departments submitted 153 proposals amounting to \$364 million. At that time, the Secretariat was able to fund only 26 of these proposals, for a total of \$77 million.
- 1.31 The uncertainty about cost implications has arisen, in part, because the initial strategic planning documents (prior to 2001) did not clearly define what the GOL initiative should encompass. The lack of definition led to confusion over whether to include a number of departments' electronic service delivery initiatives as part of GOL.
- 1.32 By the fall of 2002, the Secretariat listed 132 "most commonly used federal services" that would be on-line by the end of 2005. We note that only 43 (32.6 percent) of these 132 key services have received any central funding to bring them on-line. The other key services were funded from internal reallocations by the departments and agencies, or new funding was to be obtained.

A lack of detailed expected outcomes makes measuring progress and performance difficult

- 1.33 With only high-level expected outcomes, there is no clearly defined end state for GOL. The government will have difficulty fully measuring progress and performance toward the 2005 objectives. Each year, departments have reported on plans and progress in putting their services on-line. However, it was not until the summer of 2002, two and a half years into the GOL initiative, that the Secretariat strengthened its measurement regime by asking departments to assess their current capabilities and functionality in making the 132 most commonly used services available on-line and to predict their progress by 2005.
- 1.34 The Treasury Board Secretariat suggested a model with nine levels of description that departments could use as a self-assessment tool. However, the model did not include an assessment of progress toward achieving the overall GOL objective of full service transformation.
- 1.35 By 2005, the government plans to have some 48 of 69 transactional services at level 7 or above (Exhibit 1.5). However, by 2002, only 14 had reached these levels of on-line sophistication. Accordingly, for most of these services, significant work is needed before clients will be able to complete a binding transaction on-line (level 7) and before all clients can fully complete a binding transaction in real time without leaving the department's Web site (level 9).

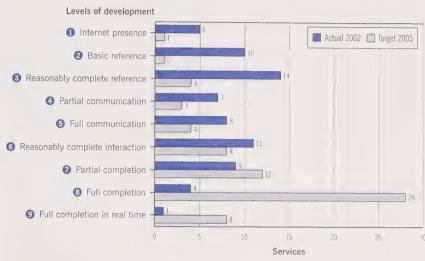


Exhibit 1.5 Government On-Line key transactional services

Source: Treasury Board Secretariat

- 1.36 The lack of appropriate (specific, measurable, achievable, and relevant) expected outcomes in the strategic plan has created risks that could compromise the success of GOL. First, without specifying clear outcomes to work toward, it is difficult to identify the best strategies and approaches for achieving the objectives and realizing the GOL vision. Second, in the absence of such outcomes in the strategic plan, the government cannot say whether GOL as a whole, or individual projects associated with it, can be considered a success in terms of having contributed to meeting the overall GOL objective of full service transformation. Accordingly, the government could declare victory in 2005 without having to measure its accomplishments against a set of clear expected outcomes. Third, there is a risk that undirected activity, not linked to any particular expected outcome, could be taking place. Such activity can be unproductive, duplicate other efforts, and waste resources.
- 1.37 Finally, we are concerned that although many documents related to GOL strategic planning exist, there has never been a comprehensive, well-articulated strategy or a consolidated strategic plan for the initiative. Although data and information collected as part of the initial consultative planning process were analyzed and risks identified, we found little evidence that the identified risks were adequately addressed in the various initial strategic planning documents.
- 1.38 Recommendation. For the 2005 GOL deadline, the Treasury Board Secretariat should clarify the expected outcomes in meaningful, measurable, and time-limited terms. If the GOL initiative is extended beyond 2005, the Treasury Board Secretariat should develop a comprehensive strategic plan that clearly sets out what GOL is to achieve.

The Treasury Board Secretariat's response. Since the GOL initiative was first announced, the Treasury Board Secretariat has worked with departments

and agencies to clarify the results expected by the end of 2005, including the information and services that will be on-line, as well as their level of maturity and functionality. Due to the unique nature of this initiative, the level of precision in defining these results has necessarily evolved over time—as has been the case in other countries. Departments and agencies report to the Secretariat on their progress each year in terms of milestones and benefits, and the annual summary Government On-Line reports reveal the extent to which the initial and iterative planning and rethinking of services for on-line delivery is showing results.

The Treasury Board Secretariat will continue to work with departments and agencies to further refine expected outcomes and make them public through the annual GOL reports. Departments and agencies will also be required to report against the new Management Accountability Framework, which sets out the Secretariat's expectations for management excellence and includes "citizen focussed service" as a key accountability.

The Secretariat concurs that for any future broader service transformation objective (beyond GOL by 2005), the government should develop a comprehensive strategic plan and implementation targets.

Governance issues

Changes in the governance structure are key to achieving full service transformation

- 1.39 Governance consists of the leadership and organizational structures and processes to help ensure that the government achieves its vision for GOL.
- 1.40 The GOL Project Management Office is responsible for managing the resources and activities related directly to the GOL initiative. It manages some \$880 million of GOL expenditures. Of that figure, \$475 million has been allocated to the Secure Channel, \$262 million to departmental GOL projects, \$95 million to the redesign of Internet sites, and \$48 million to administration and leadership. We note that the Treasury Board Secretariat estimates the cost of the Secure Channel at \$604 million.
- 1.41 The Project Management Office has rigorous criteria for selecting GOL projects for funding, and it monitors progress and costs closely. The periodic status reports that it provides to the Treasury Board Secretariat are useful. While the current governance structure is working well, the Project Management Office is directly responsible for only part of the money and other resources that the government is spending to achieve the GOL vision. The current governance structure needs to be strengthened to achieve full government-wide service transformation. Exhibit 1.6 provides examples of other electronic service delivery projects.
- 1.42 In September 2001, the President of the Treasury Board established an independent external GOL Advisory Panel. In 2002, the Report of the Panel indicated: "The objectives of the Government On-Line/Service Implementation Initiative will not be met with the current governance structure." While the current governance model has worked well to create initial momentum, the Panel indicated that a new structure and stronger leadership are essential to achieve government-wide service transformation.

Exhibit 1.6 Examples of other electronic service delivery projects

We noted several projects for delivering on-line services that are not fully accountable to the GOL Project Management Office.

For example, before the advent of GOL, the Canada Customs and Revenue Agency (CCRA) had implemented various electronic service delivery (ESD) projects to enable the public to file tax returns electronically. These included NETFILE, EFILE, and Internet T-4 Filing. CCRA's efforts to develop these projects clearly supported the GOL vision of connecting citizens to government services on-line.

Another example is the government's recent transfer of more than \$50 million from the Employment Insurance Account and the Canada Pension Plan to pay for ESD projects in these areas.

Although partially funded by the Treasury Board Secretariat, the AgConnex project is another major initiative that falls outside the GOL Project Management Office. This is a major Agriculture and Agri-Food Canada GOL initiative to provide better delivery of farm financial programs to its clients, primarily farmers and rural Canadians. The Department expects that the new project will significantly increase services to its client base and also improve recording and reporting of program performance and financial information. As of June 2003, the Department was still at preliminary project approval stage and had estimated "an indicative total cost" at \$177 million to 2006-07. However, the Department has advised that it is currently redefining and restructuring the concept into separate, manageable discrete projects that individually are to be lower cost and risk. At 31 March 2003, the Secretariat had provided \$4.3 million in GOL funding toward this project.

In addition, we noted that by March 2003, the government had invested \$1.1 billion in Canada Health Infoway Inc., an independent not-for-profit and non-governmental organization. The organization received these funds to build an on-line infrastructure for sharing the health records of Canadians in collaboration with the provinces and territories. In 2002, the Standing Senate Committee on Social Affairs, Science and Technology recommended providing a total of \$2.5 billion to the Infoway project over a five-year period.

- 1.43 The Panel concluded that strong leadership and a new governance structure will be key to managing the sweeping changes that must occur for whole-of-government service re-engineering.
- **1.44 Recommendation.** The government should strengthen its current GOL governance structure to provide greater direction over all aspects of government services and their delivery and of common service infrastructure, to achieve full service transformation.

The government's response. The GOL governance structure, which was strengthened in 2002, includes a 15-member deputy minister-level committee and a 16-member assistant deputy minister-level committee that meet at least every six weeks and oversee the work of three subject-matter expert committees on service transformation, information and other policies, and architecture. In addition, three interdepartmental committees focus on the information technology, information management, and service delivery "communities of practice."

The Secretariat agrees that should the GOL initiative be extended beyond 2005 to achieve full service transformation across government, the government should explore ways to strengthen its current governance structure.

Managing change

1.45 GOL is not simply an information technology initiative; rather it uses technology to tailor services to more closely meet the needs of the public. Departments and agencies will have to redesign or transform services and reorganize their activities to meet their clients' needs as the services become more accessible on-line and continue to be provided through a range of other channels, including telephone, in-person, and mail.

The most difficult tasks lie ahead for some departments and agencies

- 1.46 As the 2005 target date approaches and GOL expected outcomes are set, the most difficult tasks lie ahead for some departments and agencies. Providing complete transactional services, for example, will require major changes to existing systems and approaches to serving the public. Above all, constraints of funding and time have some departments struggling to meet the government's expectations before 2005 as they try to streamline and integrate systems within and between various programs or, in some cases, between departments.
- 1.47 To achieve full service transformation, departments and agencies will have to change their internal business processes. This will involve major changes in day-to-day operations, human resources, information resources, and technology. These changes will have to be carefully managed as the government moves toward providing more services on-line and making them more client-centred. Many departments have developed only high-level plans for service transformation and for dealing with the changes that will occur as a result of a shift to delivering services on-line.
- 1.48 The discussion of HRDC's Appli-Web project on pages 20–24 indicates that processes (other than providing an on-line application form) have remained largely unchanged; service transformation has not occurred. The Department has not yet formally dealt with the effect on its employees of automating parts of its Employment Insurance program.

Some departments and agencies have taken important steps to manage change

- on-line services and making the critical changes that delivering services electronically entails. One program sector at Industry Canada, Spectrum Management and Telecommunications, has been planning and aggressively pursuing the transformation of its operations for several years. Using the possibilities offered by new technologies, and in consultation with its key clients, it is developing new ways of issuing and managing radio-communication licences in real time. In the process, Spectrum is not only streamlining its operations but is creating new partnerships with its major clients and preparing and training its staff to provide more and better services to its clients. Spectrum had achieved 60 percent of its expected outcomes by April 2003, and Industry Canada expects to achieve 100 percent by December 2005.
- 1.50 Canada Customs and Revenue Agency has perhaps the most experience and the best track record in transforming the way services are

delivered within the Government of Canada. The Agency has been steadily moving away from paper-based transactions that require manual processing toward automated transactions that can be submitted, verified, and processed by its computer systems.

- 1.51 CCRA laid the ground work for electronic filing about 10 years ago when it revised the manual process that it had been using to input and verify personal income tax returns. The new process for electronic filing, by computer and by telephone, eliminates the requirement to submit a paper return and supporting documents. Close to 43 percent of 2002 personal income tax returns used the Agency's automated systems. The Agency has closed one of its taxation data centres and redistributed or re-deployed about 1,350 of the jobs formerly required to verify and process paper returns.
- 1.52 CCRA has also produced an innovative, client-centred service transformation directed at senior citizens (see case study, Simplifying income tax for seniors). This example is not one of the Agency's GOL-funded pathfinder projects.

Simplifying income tax for seniors

Canada Customs and Revenue Agency identified a number of seniors whose only source of income in the current year was Old Age Security, the Guaranteed Income Supplement, and Canada Pension Plan. Using information from Human Resources Development Canada on benefits paid to all recipients during the previous year, the Agency notified about 125,000 low-income seniors that they could complete their tax returns by telephone. By answering a few "yes" and "no" questions, they could also automatically renew their Guaranteed Income Supplement and qualify to receive the GST rebate in the following year.

This illustrates the benefits of a client-centred service transformation that the Government On-Line guiding principles promote. The Agency has turned the traditional self-assessment taxation model around in order to reach out to a particular group of senior citizens. This new approach transforms a complicated annual process into an easy confirmation process.

Funding of GOL

- 1.53 We are concerned about the funding of GOL. The government announced funding on three different occasions and, by December 2001, federal budgets had allocated \$880 million of new funds to support the Government On-Line initiative (Exhibit 1.7). Since then, the government has not provided any new direct funding for GOL.
- 1.54 Most of those funds will be spent on infrastructure (Exhibit 1.8). Departments and agencies are still expected to either invest their own funds or obtain additional funding to carry out GOL plans specific to their organization. Exhibit 1.9 provides an overview of funding by fiscal year.
- 1.55 By May 2001, the Treasury Board Secretariat had been allocated two instalments of funding for GOL, totalling \$280 million. At that time, it had various strategies and funding options for extending the work on the GOL initiative to 2004. One option, with an estimated cost of \$1 billion, provided for the development of a common secure infrastructure, including the Secure Channel, to accelerate departments' service delivery transformation, and the

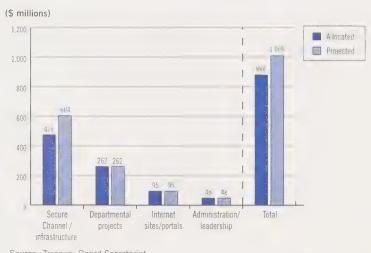
integration of services across programs and departments. The subsequent 2001 federal Budget announced funding of \$600 million, \$150 million for each of the next four years, to implement the GOL initiative until 2005.

Exhibit 1.7 Government On-Line funding

Instalment	(\$ millions)
February 2000	160
May 2001	120
December 2001	600
Total	880

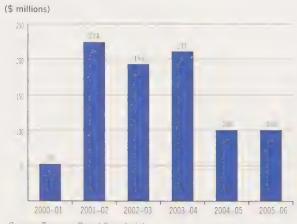
Source: Treasury Board Secretariat

Exhibit 1.8 Where Government On-Line funding is going



Source: Treasury Board Secretariat

Exhibit 1.9 Government On-Line annual allocations of funds



Source: Treasury Board Secretariat

The full cost of delivering all services electronically is not known

- 1.56 As discussed, we are concerned about the lack of up-front planning for funding GOL. Four years into the initiative we note the lack of information on what departments have spent—and will be spending—in addition to the central allocation of \$880 million, to make GOL a reality.
- 1.57 In late 2001, the government estimated that the cost of putting all key services on-line may be over \$2 billion, based on department and agency projections. However, the authorized funding of the GOL initiative is the \$880 million that the GOL Project Management Office manages. Progress and costs of projects are closely monitored. The actual cost of delivering a broad range of on-line services, as articulated in the GOL vision, will be much greater than \$880 million, given that departments are spending large amounts of money on their own internal on-line projects.

Information for Parliament

- 1.58 The government has increasingly made more general GOL information available to all citizens through the Canada site. The information also includes access to annual overview reports of the GOL initiative, GOL departmental public reports, other related publications, and listings of GOL projects approved for funding. Two information kits with videos were distributed to members of Parliament in mid-2001 and late 2002. These kits discussed service delivery and the re-designed Canada site, respectively. Similar information is also available on the public service Intranet site.
- 1.59 The principal mechanisms for departments to report to Parliament are the reports on plans and priorities and departmental performance reports. The intent of these reports, produced annually since 1997, is to provide Parliament with more specific information on the government's plans and performance.

Parliament needs more regular, comprehensive information on GOL

- 1.60 We reviewed both reports for 1999–2000 to 2002–03 for the Treasury Board Secretariat and the three departments and agencies involved in our selection of on-line projects. For GOL, we expected to see the following:
 - · definition, vision, and objectives;
 - · results expected;
 - · results achieved;
 - · costs;
 - · steps being taken to improve performance; and
 - · issues and risks.
- 1.61 We found that Parliament received adequate information on definition, vision, and results achieved. However, information on all other aspects listed above was lacking. Samples of the Treasury Board Secretariat's reporting to Parliament are included in exhibits 1.10 and 1.11.
- 1.62 In the Secretariat's reports to Parliament, we would have expected to see specific performance outcomes and data from departments and agencies

that would allow Parliament to assess the status and performance of the GOL initiative as a whole. In addition, departments and agencies could provide performance information on specific on-line projects being funded through GOL and information on the total cost of these projects, including costs funded internally. The weaknesses in reporting results are due in part to the relatively recent development (mid-2002) of the model used as a self-assessment tool for reporting departments' progress.

1.63 With respect to issues and risks, we would have expected departmental information to indicate any critical factors that could affect the progress of GOL. We also would have expected to see estimates of the cost of developing other electronic service delivery projects that contribute to achieving the GOL vision but that are not funded directly through the GOL initiative. This information would provide parliamentarians with an indication of the impact and magnitude of other GOL-related costs.

Exhibit 1.10 Extracts from Reporting to Parliament: Treasury Board of Canada Secretariat Departmental Performance Report for the period ending March 31, 2002

Through the Secretariat's Government On-Line initiative, which was extended to 2005 with funding from the 2001 budget, departments increased the number and range of electronic information and services, increased functionality of the Canada site and gateways to services for individuals, businesses, and clients outside Canada, and built a secure, government-wide electronic infrastructure. Privacy and information management policies, critical to building trust in on-line services, were also developed and implemented.

Key components of the service agenda, such as the development of a framework to promote clustered, multi-channel service delivery and service improvement targets and measurement were integrated with the Government On-Line (GOL) initiative, under the umbrella of the Chief Information Officer Branch. Budget 2001 allocated \$600 million over four years to implement the Government On-Line initiative by 2005.

Government On-Line

- A private sector consortium was selected and contracted in June 2001 to build
 the secure, common electronic service delivery platform for the Government of
 Canada known as the "Secure Channel." Key components were completed by
 February 2002, including certification and authentication infrastructure, network
 services pilot and transition for two departments, and architecture and design for
 the e-services broker.
- To enhance electronic service delivery to Canadians, 62 "pathfinder" projects were completed by a wide range of government departments and agencies, and a third round of GOL project funding assessments was initiated to support the 2005 target of putting key government services on-line. Government departments and agencies reported on their GOL plans and a government-wide report was published for the second year in a row to inform Canadians of on-line service delivery progress.
- For the second year in a row, the Government of Canada was rated first in the world for its leadership in e-government (by an international consultancy based on an assessment of 23 countries).
- With the introduction of the information technology security component of the
 revised Government Security Policy and the new Privacy Impact Assessment
 Policy, the government now has a framework for the identification and resolution of
 security and privacy issues at the outset of a service delivery design or redesign
 initiative.

18

1.64 Recommendation. The Treasury Board Secretariat and departments and agencies should provide more complete information to Parliament on the GOL initiative. Such reporting should include objectives, results expected and achieved, and costs, and should address performance improvement and discuss related issues and risks.

The government's response. The Treasury Board Secretariat concurs with this recommendation. The Secretariat, departments, and agencies recognize the need to provide Parliament with relevant, timely information that respects current lines of accountability. The Secretariat will continue to enhance the breadth and depth of its reporting to Parliament on the overall

Exhibit 1.11 Extracts from 2003-2004 Report on Plans and Priorities-Treasury Board Secretariat

Key Initiatives

• meeting service improvement commitments, including the Government On-Line initiative, as well as assessing opportunities to better rationalize the use of information technology within government.

Service Improvement

	Forecast	Planned	Planned	Planned
	2002–03	2003–04	2004-05	2005–06
Secretariat Operations	33,031	30,530	25,678	25,498
Full-time Equivalents	235	219	150	148
Total Planned Spending	33,031	30,530	25,678	25,498

Working in co-operation with departments and agencies, the Secretariat leads in the development and implementation of the Government On-Line (GOL) initiative and the Service Improvement Initiative (SII). As announced in the December 2001 federal budget, the Government of Canada allocated \$600 million over four years to the GOL initiative and extended the deadline by one year, to 2005.

In 2003-04, the Secretariat will

- set out the GOL and SII targets for 2005;
- identify opportunities to transform business processes that cut across many services.

Canadians look for accountability and results from government. The Secretariat will continue to report annually to the public on its GOL and SI initiatives.

Priorities and Plans	Time frame
Achieving Government On-Line by 2005	
 Set the year-to-year departmental/agency, horizontal/clustered and overall targets for the GOL information and transaction services available by 2005; and provide service gateways, clusters, and departments and agencies with the guidance they need to shape their GOL plans. 	2003 to 2006
 In co-operation with departments and agencies, develop common tools, best practices, and approaches to report on and measure GOL performance; support "horizontal" or government-wide control of electronic information and services; and identify opportunities for common business processes and integrated services. 	2003 to 2006

progress of the GOL initiative, by making more effective use of existing reporting mechanisms without creating an unreasonable reporting burden.

The GOL Annual Report (www.gol-ged.gc.ca) tabled in Parliament and published on the Treasury Board Secretariat's Web site in June 2003 significantly improved reporting: it provides extensive information on the GOL initiative, including a detailed allocation of funding and a complete listing of the services that will be on-line by 2005.

The Secretariat's 2003 Performance Report also substantially broadened the depth of our reporting by providing additional information on performance improvement, supporting infrastructure, policy initiatives, governance, and issues and risks.

Departmental performance reports and public GOL plans, available through department and agency Web sites, also provide information on progress in putting services on-line to meet the 2005 target. The Secretariat will continue to work with departments and agencies to improve their reporting on GOL.

In addition to these formal reporting mechanisms, the Secretariat and other departmental officials will also continue to make themselves available to inform appropriate parliamentary committees on the various aspects of the GOL initiative.

GOL projects

- 1.65 We looked at nine GOL projects (Exhibit 1.12) to assess the extent to which they contribute to the government's overall GOL objective. Specifically, our review included examining departmental strategic plans, project business cases, and other relevant documents to assess progress toward meeting the overall GOL objective of full service transformation. We also assessed take-up rates for new on-line services and the benefits in cost savings for the government and better service to the public.
- 1.66 The GOL projects that we reviewed are aligned with the government's overall GOL objective. However, our review of these projects showed that the GOL initiative faces major challenges, such as maintaining financial sustainability, transforming services, and marketing on-line services to encourage the public to use them. The following examples illustrate some of these challenges.

Progress in applying for employment insurance benefits on-line

- 1.67 One pathfinder project that we examined is the Employment Insurance Benefits (Appli-Web) project (see case study, Applying for Employment Insurance benefits on-line, pages 22–23). It affects many Canadians, and the government has provided significant funding since late 2000. It was also one of the projects that was to be used to test the Secure Channel but was replaced by the CCRA Address Change On-line project.
- 1.68 Our examination of the Appli-Web project illustrates several points raised in this report.

1.69 First, the Employment Insurance systems contain sensitive and private information; the primary focus is to ensure that HRDC is able to establish a secure method to permit the public access to EI services online. To do this securely, the Department has indicated that the Secure Channel will be key. At the time of our audit, the interface to the Secure Channel was not yet

Exhibit 1.12 Nine Government On-Line projects we looked at

Industry Canada	
Bankruptcy and Insolvency E-Filing Initiative*	The initiative aims to allow the electronic transmission and processing of forms and documents required by the <i>Bankruptcy and Insolvency Act</i> between the private sector trustees and the Office of the Superintendent of Bankruptcy.
Radio frequency Spectrum Licensing and Certification*	The project is designed to re-engineer the issuance of radiocommunication licences within Canada such that businesses and citizens can submit, exchange, review, and modify their own technical information securely over the Internet.
Canadian Customs a	nd Revenue Agency
Shared Registration Authentication Point*	The joint project with Human Resources Development Canada (HRDC) aims to develop a system that would support a common authentication process for Internet services offered by both departments.
OAS/GIS/CPP Automated and Streamlined*	Using secure Internet technology, the project aims to simplify and automate the process of supporting HRDC with taxpayer information needed by programs directed at pension benefits for seniors.
Address Change On-line	This on-line service uses secure Internet technology to allow individuals to check or change their home address, mailing address, and phone number in one step.
Telefile for Seniors	This interactive voice-response telephone service allows certain seniors to complete their tax return by answering a few yes and no questions and to automatically renew their Guaranteed Income Supplement.
Human Resources D	evelopment Canada
Employment Insurance (Appli-Web)*	The project aims to allow individuals to use a secure Internet method for submitting basic applications for unemployment benefits.
Employment Insurance (EI) Services to Individuals	Building on Appli-Web, the project aims to establish a secure method of allowing individuals to file statements of facts through the Internet.
Employment Insurance Automated and Streamlined	Expanding on Appli-Web and El Services to Individuals and aimed at reducing manual interventions, the project is intended to provide individuals with secure and full interactive employment services over the Internet.

^{*} Pathfinder project

Source: Adapted from departmental project briefs

ready to enable the transactional, interactive communication that will be essential to integrating the Department's EI systems and delivering more services electronically.

- 1.70 Second, the long-term sustainability of Appli-Web has been examined in general terms, but no specific funding has been identified for it. HRDC has identified this as a major risk to the project.
- 1.71 Third, from our review, it is clear that Appli-Web was initially managed as a project that focussed mainly on automating existing processes. To date, the interactive fact-finding system has been integrated with Appli-Web. However, until integration with all key systems occurs, the Department will not be able to take advantage of all the economies and efficiencies that automation can offer.
- 1.72 Fourth, HRDC projected take-up rates using general assumptions based on experience with an earlier application and CCRA's experience with E-File (on-line filing of personal tax returns). Take-up rates will directly affect

Applying for Employment Insurance benefits on-line

Each year, Human Resources
Development Canada (HRDC) receives
about 2.6 million applications from
Canadians for Employment Insurance
(EI) benefits. Applications are being
submitted in paper form or completed
electronically at kiosks and HRDC
offices. Electronic applications are then
printed to be processed manually by the
HRDC agents. Noting the growth of the
Internet, HRDC saw an opportunity to
use it as another vehicle for delivering
services to Canadians.

HRDC wanted to establish a secure method for the public to access a complete line of El services on-line, beginning with the Application for Unemployment benefit. The intent was to expand access over time to include on-line capabilities for conducting other related services.

The initial work involved developing a module known as Appli-Web. The expected outcomes at first were twofold: first, on a limited scale, to provide Canadians with secure access to El services over the Internet; and second, as an early partner of the Government of Canada Secure Channel, to provide valuable feedback on the use of the Secure Channel in an operational

situation. The GOL funding to 31 March 2002 for Appli-Web was \$8 million. HRDC also allocated \$2.5 million of its own funds.

The initial Appli-Web work involved enabling claimants to apply for unemployment benefits on-line rather than having to apply in person at an HRDC office. This first deliverable was completed and piloted in London Ontario in the summer-fall of 2001. The on-line application was subsequently rolled out nationally in April 2002. Applicants can now apply on-line. However, they must still submit their Record of Employment (ROE) form (information that employers provide on a claimant's employment history), either by mail or in person.

HRDC staff still perform many other tasks manually. For the most part, claims are validated and calculated using paper-based and existing electronic systems. In fact, an HRDC officer will, in many cases, still print out the original on-line application and include it in a paper file along with other information needed to approve a claim.

In October 2001, the work on the interface with the Secure Channel was

postponed. The testing for implementation of the interface with the Secure Channel is now planned for the spring of 2004. HRDC considers this component to be critical to the successful implementation of the full complement of functions for the El program.

As this project progressed in 2001, it was renamed El Services to Individuals. The expected outcomes of the project also expanded significantly. These included reducing the rate of errors on El applications and reducing and simplifying the El application process.

As the initial development work was being completed, additional features were being planned. Work on the first phase of Inter-active Fact Finding was added late in 2001. It included developing interactive questionnaires that would yield information from clients that would normally be obtained either through interviews or through letters. Other features that HRDC was working on included the Automated Benefits Estimator, Bi-Weekly Declarations, and Case Specific Enquiries, which would enable claimants to review the details of their claim file. The cost of doing this work in 2001-2002 was \$1.9 million,

the cost-effectiveness of Appli-Web. A concerted communications effort by HRDC will be key to publicizing this service and achieving the expected take-up rate. The current communications plan does not specify the level of effort in different areas of the country that will be needed to encourage Canadians to use this new service.

1.73 Finally, none of the documents that we reviewed indicated how HRDC formally plans to manage the significant changes that will result from shifting toward on-line delivery of services. Although a Modernizing Service for Canadians (MSC) Business Plan incorporates these issues, it is still in a draft stage. By 2005, it is forecast that only five percent of applicants (142,000) will deal directly with an agent when applying for Employment Insurance benefits, compared with the 75 percent (2,175,000) who applied in this manner in 2001. We would have expected a detailed plan showing what HRDC intends to do with the large number of staff who currently handle EI applications, once the process has been completely automated. Although an informal assessment has been done, such a plan does not exist.

Applying for Employment Insurance benefits on-line (continued)

all funded by GOL. The latter two features can only be fully implemented when the Secure Channel has been put in place. However due to delays in migrating to the Secure Channel, the Department in the interim is looking at alternative secure methods for some of the functionalities of the Bi-Weekly Declarations.

In 2002 HRDC recognized that a fundamental review and change of its business processes would be needed if many of its major programs and services were to be delivered effectively in the future. The operating costs of many of its services were high and continued to rise. Furthermore, the El program is supported by mainframe computer systems, some portions of which are more than 35 years old. Thus, continuing to invest in the status quo was considered to be unsustainable.

The Modernizing Service for Canadians (MSC) initiative was put in place by HRDC to support the objective of the Government of Canada to strengthen the quality and cost-effectiveness of the programs and services it provides to Canadians. All key projects, including El services, were rolled into this new initiative. It was also renamed El

Automated and Streamlined. Expected outcomes of the project have also expanded. The main additions have been to develop all modules to provide an end-to-end application (all services needed) for clients. Funding in 2002-2003 totalled \$20.4 million. Of this, \$4.6 million came from GOL and \$15.8 from the Employment Insurance Account.

HRDC is planning on completing the MSC initiative and the transformation of all HRDC services within the next five years. Since this also includes the EI project, this effectively extends the completion date to 2006–2007. At the time of our audit, the funding had been identified only to 2004–2005 and amounted to an additional \$30.4 million.

In summary, the EI project had received a total of \$32.8 million at 31 March 2003. GOL funding has amounted to \$14.5 million. Funding from the EI Account has amounted to \$15.8 million, and \$2.5 million in funds came from internal re-allocations. There was a further \$30.4 million requested from the Treasury Board Secretariat via an MSC submission in May 2002 to cover work to be done up

to fiscal year 2004–2005. This brings the total funding to \$63.2 million.

In expanding the number of on-line El services, HRDC has managed the related activities largely as individual, distinct projects. In essence, it has focussed on automating its existing business processes. With respect to service transformation, a key overall objective of GOL, limited progress has occurred. Over the past three years, the Department has not focussed on integrating the various systems involved in automating the entire range of El processes. Such integration and service transformation will be an important factor in successfully putting all El services on-line. The Department considers this to be the most complex and challenging part of the project.

HRDC has used only one performance indicator—the take-up rate—to measure the success of the project to date. The Department has indicated that the take-up rate is the key success indicator. The take-up rate for the first year was expected to be 15 percent, which was achieved. For 2004–2005, the take-up rate is expected to be in the 70 to 80 percent range.

1.74 Essentially, \$32.8 million has been invested over three years to develop supporting technology and processes that, when completed, will result in a fully automated application process. To date, the on-line application and interactive fact finding are the only two functionalities available to claimants. At 31 March 2003, 308,000 applications had been processed through Appli-Web.

The Secure Channel project

- 1.75 The Secure Channel project is a multi-departmental effort led by the Treasury Board Secretariat. Its primary goal is to provide highly secure, responsive, and economical access to government services by citizens and businesses. This secure infrastructure is the foundation for government electronic service delivery and is considered a key component of GOL by the Government of Canada. In fact, the government believes that Canadians will do business with it only if they trust that all transactions will be secure and private.
- 1.76 In a survey conducted early in 2001, only 15 percent of Internet users said that they would be willing to provide their credit card number over the Internet, and only 12 percent said that they would transmit their bank account number. These figures may explain why more than a third of regular Internet users say that they would prefer traditional methods of service whenever it is necessary to divulge personal information.
- 1.77 The Secure Channel is expected to cost about \$604 million. To date, only \$475 million has been allocated to this project. This highly complex and costly project is one of the world's first such services for mass use by individuals that incorporate the "digital signature certificate" concept. This concept provides a unique means of verifying the identity of everyone who carries out a transaction with a government department or agency.
- 1.78 Because the Secure Channel was initially classified as a concept, the decision to build it was not based on a comprehensive business case. The government is now developing such a business case.
- 1.79 At 31 March 2003, \$180.4 million had been spent developing the technical infrastructure, of which \$147.2 million was spent directly on the Secure Channel project. The results to date consist of the technical infrastructure to support the one GOL application available to Canadians thus far and upgrades to the internal network connecting 95 government departments and agencies. This application provides Canadians the ability to notify CCRA that they have changed their address. Two additional applications have been launched since the end of our field work. The first is the Receiver General Buy Button, which is now used by a department and an agency—Industry Canada and Communications Canada—and enables them to accept credit card payments on-line. The second is ROE (Record of Employment) Web launched by HRDC, which uses the Secure Channel authentication services to provide a venue by which businesses (seven large companies as at 31 July 2003) can submit Employment Insurance documentation on-line.

The Secure Channel project faces challenges

- 1.80 To date, difficulties have been encountered in achieving compatibility between Secure Channel and other applications. Early adopters of the Secure Channel have had to absorb unanticipated effort to make their applications work properly with the Channel's complex security features.
- 1.81 Up to March 2003, CCRA was the only customer to use the authentication features offered by the Secure Channel. The cost of moving CCRA's Address Change On-line (ACO) application to the Secure Channel and its support was shared by CCRA and GOL. Recognizing that departments may eventually be required to pay for the use of the Secure Channel, CCRA has indicated that projected operational costs may be too high to provide an incentive to take-up by departments. It would be cause for serious concern if the magnitude of future cost sharing resulted in a disincentive to departmental take-up of Secure Channel services.
- 1.82 Some departments who are potential users of the Secure Channel also have concerns that using its authentication services may not be affordable. The Treasury Board Secretariat estimates that issuing and managing 2.1 million certificates in 2004–05 would cost \$23 million. Based on a survey of departments, the Secretariat estimates the demand will grow to more than 10 million certificates by the year 2007 and the cost of issuing and managing them will increase to \$37 million.
- 1.83 At the time of our audit, the costs to operate and maintain the Secure Channel on a long-term basis were not fully determined. Depending on take-up rates, the cost per transaction could become very high. To offset these costs, the government is exploring various options to finance the Secure Channel. These include full funding by departments and agencies through a combination of fees and percentage of operating expenditures.
- 1.84 We note that the government has no policy that requires departments to use the Secure Channel when they launch new on-line services. Therefore, departments have followed, and can continue to follow, different approaches to delivering these services to the public. In addition, departments generally have no immediate plans to shift from their current approaches and adopt the Secure Channel for their on-line service delivery. We note that Industry Canada's Spectrum and Bankruptcy E-Filing and HRDC's Appli-Web currently use another system (the SSL—Secure Sockets Layer). SSL provides for the transmission of data securely over the Internet through encryption and use of a secure connection between a client's computer and the Web site server. CCRA uses SSL to transmit taxpayer information privately and securely over the Internet. For example, CCRA recently launched the MyAccount service, which allows Canadian taxpayers to view their account information using SSL.
- 1.85 SSL provides a high level of security in exchanging information. However, Secure Channel uses digital signatures that provide even greater security and reliability for the transaction process. Public Key Infrastructure (PKI), a Secure Channel feature, provides digital signatures that satisfy legal and audit requirements for on-line transactions and serves as a basis for

credentials that are potentially reusable between applications, departments, and governments.

- 1.86 The original intent of the Secure Channel was to provide a single entry point for citizens to interact securely and privately on-line with all federal government departments and agencies. The Secure Channel may not be as easy to use as was originally intended because of the current legal and privacy framework surrounding the sharing of information among and between departments. Citizens will have to go through a separate authentication process to verify their identity for every government organization that they wish to do business with. The re-authentication is necessary because legal and privacy constraints prevent departments from sharing information on individuals unless they are specifically permitted to do so by law. In particular, a strong process is required for authenticating businesses and individuals in situations that involve exchanging sensitive information.
- 1.87 The risk is that if the legal and privacy considerations render the system cumbersome and inconvenient, the public may choose not to use it.
- 1.88 We are not aware of another government or institution that has implemented a version of a secure channel that incorporates privacy and authentication features similar to the Canadian government's system. Moreover, some components of the project are lagging behind schedule, ranging from two to six months. Further delays will affect departmental efforts to implement their own GOL-related projects.
- 1.89 The first application available to the general public that uses the Secure Channel authentication services is the Address Change On-line (ACO). In 2002 CCRA developed this Internet application that allows individuals to submit change-of-address information directly to the Agency. The application uses the Secure Channel to register and authenticate individuals.
- 1.90 When using ACO for the first time, an individual must obtain an e-pass. The Secure Channel issues the e-pass once the Agency has verified the identity of the person wishing to obtain the pass.
- 1.91 Address Change On-line represents a relatively low-risk application that has offered a chance to test e-pass and the Secure Channel technology under real operating conditions. From October 2002 to March 2003, CCRA issued 27,000 e-passes.
- 1.92 ACO provides an early indication of how the Secure Channel operates in a particular environment. Even though the Secure Channel was subjected to testing prior to going live, including volume testing, the capacity of the Secure Channel to process the volumes of sensitive, high-risk transactions in production, such as Netfile and E-File, needs to be demonstrated.
- 1.93 In summary, the success of the Secure Channel is at risk from a number of factors, including the following:
 - There is no comprehensive business case that includes an objective, options analysis, costs, benefits and risks, and an implementation plan.

- There is no policy or strategy to get departments to "sign on" to the Secure Channel, thus making it more difficult to realize economies of scale.
- Legal and privacy issues such as the inability to share personal information could make on-line transactions less convenient.
- There is no complete plan that addresses the risks and costs of the transition to the Secure Channel for all appropriate applications.
- The technology has not yet been exposed to live, sensitive, high-traffic conditions.
- 1.94 In our view, a concerted effort on the part of the government to manage and deal with these factors is required to increase the likelihood that the Secure Channel will succeed and that the government will be able to justify the large expenditures that it will ultimately incur to implement this technology.
- 1.95 Recommendation. The government should address the key risks and challenges it faces by finalizing a comprehensive business case for the Secure Channel project, addressing its long-term financing, establishing mechanisms to encourage the adoption of Secure Channel by departments and agencies, businesses, and Canadian citizens, and addressing the current legal and policy frameworks, including the inability to share personal information.

The government's response. The Secure Channel project was designed to provide easy, convenient, and secure on-line access to government services. It is an ambitious initiative that makes pioneering use of sophisticated and leading-edge technologies in responding to Canadians' expectations for high levels of privacy and security. Much progress has been made in its implementation to date and the government has taken care to ensure that risks and challenges are identified and addressed throughout. The Secure Channel has recently been designated as a Major Crown Project.

The Secretariat generally agrees with this recommendation and notes that a first iteration of the business case for the Secure Channel was prepared in September 2001. This has been revised on an ongoing basis to reflect the evolving nature of the project and a deepening appreciation of citizen preferences and departmental requirements. A consolidated version will be finalized by spring 2004.

The government is studying ways to accelerate the pace at which departments and agencies make use of Secure Channel services, including the possibility of designating its components as mandatory services. Tool-kits are being developed to simplify and accelerate the migration of services to the Secure Channel. Secure Channel services are continuously reviewed to enhance their usability.

The Treasury Board Secretariat will continue to work with departments to improve the marketing of on-line services to enhance their use by citizens and businesses.

Work is also underway to assess the legal and policy frameworks for integrated service delivery.

Conclusion

- 1.96 The GOL initiative has the potential to markedly change the way the government delivers services to the public. Four years ago, the government announced the initiative in the 1999 Speech from the Throne. It has two more years to achieve the vision outlined in the speech. The GOL strategic planning process has built commitment and created understanding among those involved across government. The strategic plan itself, however, does not fully establish specific outcomes that are expected to be achieved by 2005 in terms of the overall GOL objective of service transformation.
- 1.97 The pathfinder and other GOL projects that we reviewed were aligned with the government's overall GOL objective. However, our review of these projects showed that progress and results have sometimes been limited. Generally, these projects did not exhibit the planning needed to deal with the significant changes that will occur as departments shift from relatively labour-intensive processes to electronic delivery of services.
- 1.98 The GOL Project Management Office directly controls only a portion of the government's many GOL-related projects. The Office is appropriately overseeing and accounting for the projects that it funds. However, there is no single umbrella organization responsible for managing and co-ordinating all projects related to achieving the GOL vision. In the absence of an appropriate accountability mechanism that oversees and reports on all GOL projects, it is difficult to manage GOL as an integrated effort. Parliament is not adequately informed about the cost and progress of either individual projects or the GOL initiative as a whole. In addition, significant investments are being made in other electronic service delivery projects.
- 1.99 The action plans that we saw for marketing GOL and encouraging Canadians to go on-line to obtain services were general and high-level. They lacked details on what departments would actually do to increase take-up rates for electronic services. This creates the risk that GOL could become an expensive and underused vehicle for providing services to the public.

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About the Audit

Objective

The audit objectives were to assess

- whether the government had established adequate plans and strategies for achieving its GOL objectives for 2005,
- whether appropriate accountability and reporting mechanisms have been established,
- the extent to which GOL and pathfinder projects contributed to the overall GOL objective, and
- the extent to which the government has dealt with key change management issues.

We also identified specific areas within the departments and agencies that we examined, where improvements are needed to meet GOL objectives.

Scope and approach

We carried out our audit work primarily at the Treasury Board Secretariat, Public Works and Government Services Canada (PWGSC), the Canada Customs and Revenue Agency (CCRA), Human Resources Development Canada (HRDC), and Industry Canada.

We followed a dual audit approach. It combined both examining the GOL activities at the Treasury Board Secretariat, which provides leadership and co-ordinates the GOL initiative, and addressing the GOL activities of the three lead organizations to assess their compliance with the government's objectives for the initiative. We also analyzed the Secure Channel project at PWGSC to determine whether the Department was properly identifying and managing key risks, such as costs and take-up.

We did not examine the procurement of information technology goods and services or the adequacy of management in individual GOL projects. Nor did we examine the technical aspects of the technological infrastructure because it is still under development.

Criteria

The following criteria were used in the audit:

- The government should have an adequate GOL strategic plan and governance regime.
- GOL and pathfinder projects should be aligned with the overall GOL objective.
- There should be adequate reporting to Parliament on GOL.
- Appropriate levels of government should be addressing change management for the projects we selected.

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Report of the Auditor General of Canada to the House of Commons—November 2003

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2003



Report of the
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to the House of Commons

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Chapter 2
Accountability and Ethics in Government







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Chapter 2
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Chapter

2

Accountability and Ethics in Government

All of the study work in this chapter was conducted in accordance with the policies of the Office of the Auditor General for studies. The policies draw on the standards and practices of various disciplines. The Office used various methodologies and techniques in the evelopment and presentation of the studies' findings.

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Accountability and Ethics in Government

Main Points

- 2.1 Maintaining the trust of the public is a continuing challenge for government. In a large organization like the federal government, there are bound to be problems and failures, despite best efforts. Public trust in government erodes when there are actual or perceived significant problems in major government programs that could have been prevented or corrected. Over time, the cumulative impact of such events may lead Canadians to call into question the integrity of government as a whole.
- 2.2 The government has issued *Guide for Ministers and Secretaries of State, Guidance for Deputy Ministers*, a management accountability framework for deputy ministers, and a values and ethics code for the public service. According to the government, the publication of the documents is to help reaffirm the government's commitment to meet Canadians' expectations of the highest standards from their elected and non-elected officials. The documents deal with questions that are central to maintaining trust in government: What are the duties of ministers and deputy ministers and how and to what extent are ministers, deputy ministers, and officials to be held responsible and accountable for government actions in the 21st century?
- 2.3 We have concerns about the clarity of the documents and we have recommended that the government should further explain how it intends to turn the principles in the documents into action. We believe the documents provide an opportunity for Parliament to examine the appropriateness and effectiveness of some of the basic ways ministers and senior public servants can be held to account for their decisions.
- 2.4 The government needs to determine the root causes of major problems in government programs. We believe that the government, as an urgent matter, needs to initiate independent, in-depth studies to examine this issue and take steps to prevent their reoccurrence.
- 2.5 Departments responsible for major procurements and for grants and contributions programs are making slow progress toward establishing comprehensive values and ethics initiatives. The Treasury Board Secretariat needs to develop a model for comprehensive initiatives and set deadlines for departments to establish such initiatives.
- 2.6 We believe that public servants must have a robust, credible mechanism for addressing cases of wrongdoing. The government needs to act to address the concerns identified in the report of the Public Service Integrity Office, issued in September 2003.

Background and other observations

- A sound basis of values and ethics is critical both to reduce the likelihood that there will be significant problems in programs and to ensure that when they do occur, problems will be dealt with properly. In our October 2000 Report, Chapter 12, Values and Ethics in the Public Sector, we recommended that the government take steps to address the need for maintaining public trust. Since then, as part of its ethics action plan, the government has
 - published official guides that describe the responsibility and accountability of ministers, secretaries of state, and deputy ministers;
 - developed a management accountability framework for deputy ministers; and
 - issued a code of values and ethics for the public service.
- The guide, framework, and code establish principles for holding the government to account. There are still gaps that need to be addressed, however, and the principles will have to be translated into action.
- The Clerk of the Privy Council stated in March 2003 that the public service's dedication to values and ethics must be unassailable and unwavering. We agree and we believe that leadership by both elected officials and senior public servants for values and ethics must be uncompromising.
- If the government clarifies and successfully implements the principles in its guides and other initiatives, it will increase accountability and strengthen the organizational and cultural measures that support it. This will help to reduce the likelihood that major programs could go off track.

The Privy Council Office has responded on behalf of the federal government. Its response appears at the end of the chapter.

Introduction

- 2.11 In a large organization like the federal government, there are bound to be problems and failures, despite best efforts. Over time, the cumulative impact of such events could lead Canadians to question the integrity of government as a whole—at both the political and the public service levels. A sound basis of values and ethics is critical to reduce the likelihood that there will be significant problems in programs and to ensure that when they do occur, problems will be dealt with properly.
- 2.12 Canadians expect the government to meet the highest standards of administration in conducting public business. The government has responded to those expectations with measures to improve public administration and with initiatives that emphasize values and ethics. These measures themselves raise public expectations for the proper conduct of public business.
- **2.13** In June 2002, the government announced an eight-point plan of action on government ethics that included
 - issuing a guide for ministers and secretaries of state;
 - developing guidelines for ministers' dealings with Crown corporations;
 - providing ministers with guidelines to govern their personal political activities;
 - establishing a new procedure for appointing the Ethics Counsellor;
 - seeking support for a code of conduct for members of Parliament and senators;
 - improving clarity, transparency, and enforceability of the *Lobbyist Registration Act*;
 - introducing legislation to govern the financing of political parties and candidates; and
 - strengthening public service management and accountability for public funds, including mechanisms for more explicit accounting of departmental affairs by deputy ministers.

Focus of the study

2.14 The study described in this chapter reviewed the government's action on our October 2000 Report and our recommendations for government-wide and departmental actions to promote values and ethics in the public sector (Exhibit 2.1). Similar recommendations were made in our May 1995 Report, Chapter 1, Ethics and Fraud Awareness in Government; the government's A Strong Foundation: Report of the Task Force on Public Service Values and Ethics (the 1996 Tait Report); and Principles for Managing Ethics in the Public Service, developed in 1998 by the Organisation for Economic Cooperation and Development (OECD). It also builds on our work on accountability that we reported in our December 2002 Report chapter, Modernizing Accountability in the Public Sector.

- 2.15 In this study, we reviewed recently released key documents on the leadership responsibilities and accountabilities of ministers and deputy ministers. We also reviewed the Treasury Board's new *Values and Ethics Code for the Public Service*.
- 2.16 We looked at the progress made on values and ethics initiatives of key departments responsible for procurement and for grants and contributions programs. In addition, we reviewed how well the Treasury Board's November 2001 policy on the internal disclosure of information on wrongdoing was working. Our review of the relationship between the public and private sectors was limited to activities of lobbyists.
- 2.17 Our observations in this chapter will serve as a starting point for further examination of the initiatives set out in the government's June 2002 action plan on ethics.
- 2.18 More details on our study objectives, scope, and approach are presented in **About the Study** at the end of this chapter.

Exhibit 2.1 Auditor General's October 2000 Report recommended priorities for action

- · Reinforce leadership for promoting ethical conduct by, for example,
 - clarifying the principle of ministerial responsibility and the responsibilities of officials; and
 - identifying the responsibilities of senior and line managers for promoting sound values and ethics.
- Re-invigorate an extensive dialogue on values and ethics that emphasizes the primacy of the principles of respect for law, the public interest, and public service as a public trust.
- Develop a statement of values and ethics for the federal public sector and for each federal entity.
- Develop a set of values and ethics to guide the interaction between the public and private sectors.
- Establish comprehensive values and ethics initiatives in federal entities and interdepartmental communities.
- Provide guidance for ethical decision making and develop recourse mechanisms to allow the voicing of ethical concerns, with appropriate protection for all concerned.
- Explain to all members of the federal public sector the general and specific laws and policies relating to improper conduct.
- Provide objective assessments and reports to Parliament on values and ethics in federal entities.

Observations and Recommendations

Parliamentarians are working on a code of conduct

- 2.19 The 1984 report Ethical Conduct in the Public Sector (Michael Starr and Mitchell Sharp) asked parliamentarians to set an example for the public sector. Parliament has made various attempts since then to establish a code of conduct for both chambers. For example, in 1997 a joint committee of the House of Commons and the Senate proposed a code of conduct and ethical principles for consideration by Parliament. However, this proposal was not adopted.
- **2.20** In October 2000, we recommended that parliamentarians again consider their leadership role as part of a comprehensive approach to values and ethics in the public sector.
- 2.21 Such action would be consistent with developments in similar jurisdictions. In 1995 the United Kingdom House of Commons established a Parliamentary Commissioner for Standards, appointed by the House of Commons and responsible for registering interests, providing guidance and training, and investigating complaints by parliamentarians and the public. Members of the UK House of Commons are governed by a Code of Conduct (1996) and the Guide to the Rules Relating to the Conduct of Members. The code of conduct sets out seven principles of public life that guide the public sector in the United Kingdom: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.
- 2.22 In October 2002, the Canadian government asked Parliament to consider addressing ethical issues; in April 2003 it introduced Bill C-34, which would create an ethics officer for the Senate and an ethics commissioner for the House of Commons. The Bill received third reading in the House of Commons. In June 2003, the House of Commons Standing Committee on Procedure and House Affairs issued a report recommending to the House that a code of conduct be included in the Standing Orders of the House.

Ministerial responsibility and accountability

Guidelines for ministers and deputy ministers have been issued

- 2.23 The Tait Report in 1996 said that ministerial responsibility touches on the "deepest values of public service in a parliamentary democracy" and, if these values are shifting, "much else is in doubt." It identified concerns that the concept was unclear, outdated, "just unreal," or "meaningless." Our October 2000 Report recommended that a clear statement of ministerial responsibility be developed.
- 2.24 In June 2002, the Prime Minister issued *Guide for Ministers and Secretaries of State.* In June 2003 the Privy Council Office issued *Guidance for Deputy Ministers* and a management accountability framework developed by the Treasury Board Secretariat.
- 2.25 The documents provide a basis for a much-needed discussion of ministerial and deputy ministerial responsibility and accountability. The documents deal with a question that is central to maintaining trust in

government: How and to what extent are ministers, deputy ministers, and officials to be held responsible and accountable for government actions in the 21st century? The documents are important in helping to clarify the meaning of responsibility and accountability of ministers and deputy ministers. However, we believe the government needs to further explain to Parliament how the principles in these documents (such as responsibility, accountability, and answerability) will be implemented.

- The Guide requires that ministers uphold high standards of ethical conduct in both their public and their private lives. It promotes ethical conduct by providing more transparent criteria for assessing ministerial actions and makes it clear that ministers have a responsibility to respect the non-partisanship of the public service.
- The Guide uses key terms such as responsibility, accountability, and answerability, among which the June 2003 Guidance for Deputy Ministers distinguishes as follows:
 - Responsibility entails ministerial use of authority.
 - Accountability refers to a minister's obligation to explain and justify how he or she has discharged a responsibility and to accept the personal consequences for problems the office holder may have caused or that could have been avoided or corrected, had the office holder acted appropriately.
 - Answerability refers to the obligation of ministers to provide information on the use of powers by bodies that report through them to Parliament or on actions taken by previous incumbents of their office. It does not include the personal consequences that are associated with accountability.
- The Guide for Ministers and Guidance for Deputy Ministers use these definitions to formulate basic principles of ministerial and deputy ministerial responsibility, accountability, and answerability that apply in particular situations (Exhibit 2.2).
- However, questions remain. For example, the Guide states that ministers are accountable to Parliament for actions that they have taken in their current portfolio. Current ministers are also to be accountable for taking steps to correct errors and to prevent their reoccurrence. The Guide also indicates that ministers are either accountable and answerable or merely answerable to Parliament. The Guide goes on to state that, "...current Ministers are answerable for actions taken by previous incumbents." This leaves open the implication that the obligations of current ministers to the past is limited to answerability, and begs the following question: Who if anyone is to be accountable to Parliament for matters that had their origins in the actions of a predecessor of the current minister?
- The Guide indicates that ministerial accountability for Crown corporations is limited to the degree of ministerial control over and responsibility for the corporations as defined in their establishing legislation.

Exhibit 2.2 Principles of ministerial responsibility and accountability

- Ministers are responsible and accountable to Parliament for the use of powers
 vested in them by statute. This requires their presence in Parliament to answer
 questions on the use of those powers. It is of paramount importance that ministers
 give honest, accurate, and truthful information to Parliament.
- Whether a minister has used the powers appropriately is a matter for political judgment by Parliament. The Prime Minister has the prerogative to affirm support for ministers or ask for their resignation.
- Ministers are not required to resign when departmental officials make administrative errors. When errors or wrongdoing are committed by officials under their direction, ministers are responsible for promptly taking the necessary remedial steps and for providing assurance to Parliament that corrective action has been taken to prevent reoccurrence.
- Accountability of ministers for Crown corporations is limited to the degree of their control over and responsibility for the organizations as defined in the corporations' establishing legislation.
- Parliamentary questions cannot be directed to a former minister concerning policies or transactions in a portfolio he or she no longer holds. Current ministers are answerable for actions taken by previous incumbents.
- Public servants are accountable to ministers and not directly to Parliament. Before
 parliamentary committees, ministers are responsible for deciding which questions
 they should answer personally and which questions may be answered by officials
 speaking on their behalf. Officials provide factual answers and explain policies, but
 they do not defend or debate them.
- When requested by parliamentary committees, deputies should personally appear to give an account of their stewardship of the department.

Source: Guide for Ministers and Secretaries of State and Guidance for Deputy Ministers

Ministers are not answerable for matters over which they have no authority, and they are not subject to the consequences of powers not vested in them. However, the Guide does not indicate who would be held accountable in Parliament for actions over which a minister had no authority but that were taken by a Crown corporation or a non-departmental organization in his or her portfolio.

A need to clarify accountability of deputy ministers

- 2.31 Concerns about appropriate accountability of deputy ministers are long-standing. The 1979 Report of the Royal Commission on Financial Management and Accountability (Lambert Commission Report) and the 1985 Report of the Special Committee on Reform of the House of Commons (the McGrath Report) called for deputy heads of departments to be accountable before parliamentary committees for the administration of their departments.
- 2.32 The government indicated in June 2002 that it would introduce new measures to provide for a more explicit accounting by deputies for the affairs of their departments. The government stated that this initiative would lead "to enhanced accountability mechanisms in Parliament and in public for proper management practices."

- 2.33 Deputy ministers' responsibilities. The government's *Guidance for Deputy Ministers* (June 2003) states that the deputy minister is responsible for the effective management of his or her department and must account to the minister if something goes wrong. It says that deputy ministers have a general obligation to ensure that resources allocated to them are managed well, are being used for the priorities identified by ministers, and are achieving results for Canadians.
- 2.34 The document points out that deputy ministers' responsibilities flow from delegation by ministers; from certain provisions of the *Financial Administration Act*, the *Public Service Employment Act*, and the *Official Languages Act*; and from common law. It notes that the *Financial Administration Act* (FAA), for example, assigns the following responsibilities to deputy heads:
 - Ensure that there is an adequate system of internal control and audit (section 31(3)).
 - Ensure that their organizations have the money to pay for any goods and services before ordering them (section 32(1)).
 - Establish procedures and maintain records to control financial commitments (section 32(2)).
 - Authorize payment for contracted goods and services by certifying that goods received and services rendered are satisfactory (section 34).
 - Maintain adequate records of public property and comply with regulations governing its custody and control (section 62).
- 2.35 Guidance for Deputy Ministers also points out that the Treasury Board, using its powers under the FAA, has placed considerable responsibility on deputies for the proper management of public funds and property. In addition, the Treasury Board and the Public Service Commission may also delegate to them certain responsibilities for human resources management. Deputies will have additional responsibilities if Bill C-25 (Public Service Modernization Act) becomes law. The Bill encourages the Public Service Commission's delegation of hiring to deputy heads and delegation by them to as low a level as possible in the public service.
- 2.36 Deputy ministers' accountability. Although the government indicated in June 2002 that deputy minister accountability in Parliament was to be enhanced, it is not clear what has changed. We note that the *Guidance for Deputy Ministers* includes a new management accountability framework for deputies that has the potential to improve accountability. However, the Guide for ministers indicates that deputies are not accountable to Parliament. In addition, *Guidance for Deputy Ministers* restates the principle that deputy ministers are accountable to ministers, to the Prime Minister through the Clerk of the Privy Council, and to the Treasury Board and the Public Service Commission for responsibilities assigned to them.

- **2.37** The accountability for administrative errors described in these documents is complex. *Guidance for Deputy Ministers* uses the term responsibility in discussing ministerial responsibility for administrative errors:
 - Ministers are individually responsible for their personal acts, the general conduct of their departments, and acts done in their name (or left undone) by their departmental officials with or without their prior knowledge.
 - Ministers must be present in the House of Commons to account for the powers assigned to them, to respond to questions, and to defend how they or their officials have exercised power.
 - Ministers must be present in Parliament to account for the use of powers
 vested in them, including any errors committed in administration.
 However, ministerial responsibility does not mean that a minister will be
 required to resign whenever an administrative error is made in his or her
 portfolio. If a departmental official makes a mistake, the requirements of
 ministerial responsibility are satisfied when the minister answers in
 Parliament for the mistake and takes the necessary corrective action.
- 2.38 However, the Guidance document also states that a deputy minister appearing before a parliamentary committee has a "special obligation to describe the progress, activities and performance of the department in such areas as financial management, program and service delivery, and human resource management." It says that deputies "should give careful attention to this dimension of their role, and when requested to do so, should personally appear before parliamentary committees to give an account of their stewardship of the department [emphasis added]. They should ensure that their officials do likewise."
- **2.39** When there is a disagreement between a minister and a deputy, the Guidance document says it is of the utmost importance that deputies give due weight to their own specific responsibilities directly assigned under legislation. If the disagreement cannot be resolved, deputy ministers are advised to discuss the matter with the Clerk of the Privy Council.
- **2.40** Public Accounts Committee guidelines. Developed in 1989 by the Canadian Council of Public Accounts Committees, Guidelines for Public Accounts Committees in Canada provides a contribution to this discussion of the responsibilities and accountability of public servants from the perspective of parliamentarians and legislators. The document uses the term accountability to describe the relationship between public servants and public accounts committees. The document states, "Public Accounts Committees should hold public servants accountable for their performance of the administrative duties and implementation activities which have been delegated to them." It provides the following explanation for holding public servants accountable:

...because of the size of most government departments today, considerable authority has been delegated to public servants for the day to day management of the department. Public servants have been given authority to make decisions and take actions

concerning the spending of most public funds and the management of resources. It is appropriate that these people be held accountable for their decisions and actions, and it is not acceptable for them to be able to use the principle of ministerial responsibility when they are asked to account for their decisions and actions [emphasis added].

Because of the amount of delegation that is required today, it is not fair to the Ministers to expect them to be personally responsible for the actions and decisions of all employees in a department. As well, it is impossible for a Minister to have knowledge of all actions and decisions taken by department officials.

- 2.41 The Guidelines also recommend that public accounts committees call before them public servants who have been responsible for actions the committees are reviewing, even if they have moved to other positions or have retired. The Canadian Council of Public Accounts Committees reported in 1991 that its recommendation to "hold public servants accountable for the performance of their administrative duties" had been implemented at the federal level.
- 2.42 Parliamentary context for deputy minister accountability. Reports by parliamentary committees have pointed out that the parliamentary culture may have to change before reforms can be made such as holding deputy ministers and other public servants to account for the exercise of their authorities. The key change that the committees have recommended is the establishment of a non-partisan approach to reviewing the administrative responsibilities of public servants. For example, *The Business of Supply:* Completing the Circle of Control (Standing Committee on Procedure and House Affairs, 1998) noted that committee review of government spending estimates would be helped significantly if committee hearings were less confrontational. In addition, the guidelines for public accounts committees state that committee hearings should focus on administration rather than policy and should operate in a non-partisan way.
- 2.43 Need for clarification. It is not apparent how the government's intention to enhance deputy minister accountability to Parliament has been achieved by the government's publication of *Guidance for Deputy Ministers*. On the one hand, the government documents say that deputies are not accountable to Parliament. On the other hand, when giving specific guidance to deputy ministers with respect to appearances before parliamentary committees, they say that deputies have a duty "to give an account of their stewardship of the department" when asked by committees. This phrasing implies accountability because it directs the deputy to account for his or her exercise of personal responsibilities. The phrase is also similar to the one used by the government in the Guidance to define accountability as "rendering an account of how responsibilities have been carried out and problems corrected and, depending on the circumstances, accepting personal consequences for the problems the officer holder caused..."

- **2.44** We believe there is a need to resolve this ambiguity, given the intention of the government to enhance deputy minister accountability to Parliament and the expectations of parliamentarians.
- **2.45** Recommendation. Parliament may wish to consider reviewing *Guide* for Ministers and Secretaries of State and Guidance for Deputy Ministers. The government should clarify *Guidance* for Deputy Ministers to indicate whether deputies are to be accountable to Parliament in their own right for their administrative responsibilities or only answerable on behalf of ministers.

Management accountability framework for deputy ministers could be used by parliamentary committees

- 2.46 Guidance for Deputy Ministers also contains a management accountability framework developed by the Treasury Board Secretariat. The Privy Council Office told us that the framework and the Guidance together "have clarified the responsibilities and accountabilities to which Deputy Ministers will be held, and form the basis of a rigorous accountability regime for the Public Service, including values and ethics."
- 2.47 The Privy Council Office also noted that it has refined "the Performance Management Program for Deputy Ministers to place a greater focus on how results are achieved, with a direct link to the role of values and ethics in achieving results." The program is administered by the Clerk of the Privy Council. A performance agreement is established annually as a mutual understanding between each deputy minister and the Clerk as to what is expected of the deputy minister. At the end of the year, performance is reviewed. The Clerk seeks input from a variety of sources, including ministers, committees of senior officials, the Treasury Board Secretariat, and senior management of the Privy Council. A performance rating is assigned and approved by the Governor in Council.
- 2.48 The framework states, "Departmental leaders by their actions continually reinforce the importance of public service values and ethics in the delivery of results to Canadians." It outlines indicators and measures for assessing achievement—for example, staff assessment of the organization's performance against public service values and ethics.
- **2.49** While the framework is intended to help ministers and central agencies hold deputy ministers accountable, parliamentary committees could also use it when they call deputy ministers to account for their stewardship of their departments, as contemplated in *Guidance for Deputy Ministers*.
- **2.50** Recommendation. Parliament may wish to consider how parliamentary committees could use the Treasury Board Secretariat's management accountability framework as a gauge when committees ask deputy ministers to give an account of their stewardship of their departments.

Raising awareness of values and ethics

Values and ethics code for the public service

2.51 The tenth Annual Report to the Prime Minister on the Public Service of Canada by the Clerk of the Privy Council (March 2003) noted that the reputation of the public service "has been damaged in recent years." The Clerk wrote,

There have been public controversies about the way we managed grants and contributions, distributed sponsorship funds and managed a national registration system. This scarring may not be permanent but it shakes the pride we have in our institution. It undermines the contract of trust between citizens, parliamentarians and us.

He emphasized that "values and ethics are the immutable core of the public service" and the public service's "dedication to values and ethics must be unassailable and unwavering."

- 2.52 We recommended in October 2000 that the government reinvigorate the dialogue on values and ethics and develop a statement of values and ethics for the federal public sector as whole. Since then, the Treasury Board Secretariat together with two deputy minister co-champions and the Canadian Centre for Management Development (CCMD) have devoted considerable effort to raising awareness of values and ethics in the public service. For example, the Treasury Board has issued a values and ethics code for the public service and provided guidance to public servants on its Web site. The CCMD has initiated a discussion series on values and ethics, and it has developed a two-day course on the subject for public service executives. Because it is voluntary, there is currently no plan for the roughly 4,000 senior managers in the government to take this course.
- 2.53 In 1997 the Treasury Board launched its modern comptrollership initiative, which now extends to about 90 departments and agencies. Values and ethics are one of the four pillars of this initiative. In 2000 the government adopted a new management framework, *Results for Canadians*. The framework identifies values as one of four areas critical to a well-performing public sector. It states that public service management "must respect and reinforce Canadian institutions of democracy and it must be guided by the highest professional and ethical values."
- 2.54 In June 2003, the Treasury Board published a new *Values and Ethics Code for the Public Service*, effective 1 September 2003. Public servants recognized that a code was needed, and the outcome is the result of a long process of consultation with many public servants. It applies to the departments and agencies for which the Treasury Board is the employer—those listed in Part I, Schedule I of the *Public Service Staff Relations Act*. Thus, it does not apply directly to organizations such as the Canada Customs and Revenue Agency, the Canadian Food Inspection Agency, or Crown corporations. However, it does state that the Code is a policy of the Government of Canada and that public service institutions not covered by the Code should respect its spirit and adopt similar provisions.

Values and ethics code has strengths and some shortcomings

- **2.55** It is clear in *Guidance for Deputy Ministers* that deputies must take the lead in ensuring that they and their employees uphold and demonstrate public service values and ethics. The new Code has among its strengths the following:
 - It makes deputy ministers responsible for ensuring that mechanisms and assistance are in place to help public servants raise, discuss, and resolve concerns about the Code, including designating a senior official to deal with such matters.
 - It presents four sets of values—democratic, professional, ethical, and people values—and acknowledges that tensions exist among them and conflicting values need to be reconciled in the public interest.
 - It makes adherence to the Code a condition of employment in the public service.
 - It extends the application of the post-employment rules of conduct to positions two levels below executives.
 - It makes a breach of the Code a wrongdoing that can be reported under the government's internal disclosure policy to either a senior departmental officer appointed under the policy or to the Public Service Integrity Officer.
- 2.56 The Code also has shortcomings. It uses terms such as public interest, objectivity, impartiality, loyalty, and integrity, but it does not define them adequately; it presumes that they are self-explanatory. While it calls for conflict among values and ethics to be resolved in the public interest, the Code does not provide adequate guidance on how to determine the public interest in a given situation. Nor does it provide guidance on how to reconcile or assign priority to conflicting values. A significant effort will be needed to explain the Code and translate it into practice. Otherwise, it may simply be put on a bookshelf to collect dust.
- 2.57 Our October 2000 chapter recommended that the government establish comprehensive values and ethics initiatives in federal entities. However, the Treasury Board Secretariat chose to give departments considerable latitude to develop and implement values and ethics initiatives. We are concerned that the Secretariat has no model outlining what a comprehensive value and ethics initiative should contain and no deadlines for departments to develop and implement an initiative. Nor has it identified the resources needed for this undertaking.
- 2.58 Integrating the code into public service management. The publication of the Code sets the stage for the even more difficult challenge of integrating the Code's principles into decision making. The government recognizes that there is a need for better integration of values and ethics into the daily practices of government organizations. The Treasury Board Secretariat is concerned about a continuing perception among public servants that senior managers do not "walk the talk," and that responsibilities are delegated without an adequate framework of values or any assurance of

the support or backing of superiors. The Secretariat has a project underway to address these concerns and integrate values and ethics into the public service. At the time of our study, the Secretariat had not determined a completion date for the project.

2.59 We noted that steps have been taken to integrate values and ethics into decisions about creating arrangements for alternative service delivery. The April 2002 policy on alternative service delivery contains a public interest test to determine whether such an arrangement would be in the public interest. The policy asks officials to determine that a proposed arrangement will "promote values and ethics and an organizational culture that are consistent with public sector values and ethics" and that "the expected organizational culture (including a framework of values and ethics) will materialize."

2.60 Recommendation. The Treasury Board Secretariat should

- provide guidance on the meaning of key terms in the *Values and Ethics*Code for the *Public Service*, particularly what is meant by the public interest in specific situations and how to integrate values and ethics into decision making;
- develop a model for comprehensive departmental initiatives on values and ethics that takes into account the risks faced by departments;
- ensure that departments have the expertise they need, a working knowledge of organizational ethics and best practices, and the capacity to provide appropriate training to staff in a reasonable time frame;
- identify the funding needed for departments to develop and implement their own comprehensive values and ethics initiatives; and
- establish deadlines for departments to develop and implement comprehensive values and ethics initiatives.

Internal disclosure policy on wrongdoing

- 2.61 We believe that public servants must have a robust, credible mechanism for dealing with cases of wrongdoing. In 1996, public servants told the Tait study group that there was no point in asking them to uphold public service values or maintain high ethical standards if they were not given the tools to do so. The Tait Report concluded that unless recourse mechanisms were created, many public servants would consider all the talk about values and ethics as "so much hot air." Our October 2000 Report expressed similar concerns.
- 2.62 In response, the Treasury Board developed its Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace, which came into effect in November 2001. The policy defined wrongdoing as a violation of any law or regulation or a misuse of public funds or assets; gross mismanagement; or an act causing substantial and specific danger to the life, health, and safety of Canadians or the environment. Violations of the Values and Ethics Code for the Public Service have since been added to that definition.

- 2.63 The President of the Treasury Board indicated that the policy was instituted to help the public service carry out its "fundamental role in serving the public interest." The policy called for departments to designate senior officers who would receive and investigate disclosures of wrongdoing and ensure prompt action. It also established the Public Service Integrity Office (PSIO) to receive disclosures when public servants believe that they cannot disclose the information in their own departments or that their departments have not addressed such disclosures properly. The PSIO does not have the mandate to receive complaints from the public, officials in Crown corporations, and major federal entities such as the Canadian Food Inspection Agency and the Canada Customs and Revenue Agency.
- **2.64** The policy allows for the disclosure of wrongdoing; however, it fails to adequately address the fact that disclosure is seen as highly risky in a risk-averse public service.
- 2.65 The Public Service Employee Survey by the Treasury Board Secretariat in December 2002 shed some light on the extent to which public servants feel vulnerable to reprisal for reporting wrongdoing. While the survey did not ask public servants whether they believe they can report wrongdoing without fear of reprisal, it did ask whether they believe they can seek formal redress without fear of reprisal on such matters as a grievance, right of appeal, or a health and safety concern.
- 2.66 The survey found that
 - 35 percent of public servants did not feel they could seek formal redress without fear of reprisal and
 - 40 percent of finance officers and 38 percent of procurement officers felt they could not seek formal redress without fear of reprisal.
- **2.67** A July 2003 study by the Secretariat surveyed public servants' awareness of, knowledge of, use of, and willingness to use the policy on internal disclosure of information on wrongdoing.
- 2.68 About 13 percent of the public servants who responded to the survey said that they had been aware in 2002 of wrongdoing in the workplace; of that group, 65 percent said they had not disclosed the information. However, the survey did not report the types of wrongdoing that had occurred.
- 2.69 During our study we found that a small number of cases had been reported to senior internal disclosure officers in National Defence, Public Works and Government Services Canada (PWGSC), Human Resources Development Canada (HRDC), and Industry Canada. Many of them were related to personal employment concerns rather than disclosure of wrongdoing as defined by the government.
- 2.70 The Public Service Integrity Office released its first annual report on 15 September 2003. The report contains a thoughtful analysis of the current situation and recommendations to improve it. The report concluded that the PSIO "does not have sufficient support and confidence of public sector

employees" and that serious consideration should be given to making the PSIO legislation-based instead of policy-based.

2.71 On 16 September 2003, the President of the Treasury Board told the Senate Standing Committee on National Finance that she was creating a working group "to examine disclosure of wrongdoing in the workplace and to propose concrete solutions." The President appointed a working group on 29 September 2003 and a report to the President is expected by the end of January 2004. Based on our analysis, we believe the working group should give serious consideration to the PSIO report recommendations, including that the PSIO should be based on legislation rather than policy.

Lobbyists Registration Act and Code of Conduct

- 2.72 The Lobbyists Registration Act and the Lobbyists' Code of Conduct (1997), both administered by the Office of the Ethics Counsellor, address elements of the interaction between the public and private sectors. The Act covers communications by paid lobbyists with public office holders in respect of the development of legislative proposals, the introduction of bills, the making of any regulation, the development of any policy or program, the awarding of any grant, contribution, or other financial benefit, and the awarding of any contract. It also covers the arranging of meetings between a public office holder and any other person.
- 2.73 The Act recognizes lobbying of public office holders as a legitimate activity. The *Lobbyists' Code of Conduct* establishes the conduct the government expects of lobbyists, and they are legally obliged to comply with the Code. The Act authorizes the Ethics Counsellor to investigate breaches of the Code and report the results to Parliament.
- 2.74 The Lobbyists Registration Act was amended in June 2003 to expand the requirements for registration of lobbyists and improve the enforceability of the Act. The Act focusses on disclosing the names of lobbyists who have been paid. It does not attempt to regulate how lobbyists lobby. It does not categorize requests for information as lobbying, and it does not apply to unpaid lobbyists.
- **2.75** One of the key services that lobbyists offer is obtaining timely information for their clients. The information they obtain is not secret, but some of it may not be readily available to the public. For example, lobbyists
 - obtain information on upcoming procurements or regulatory initiatives,
 - obtain information on the different views and interests of the government departments affected,
 - identify the key decision makers in departments for particular issues, and
 - provide decision makers in departments with information in an effort to improve the chances that the bids of the lobbyists' clients will be successful.
- 2.76 These services may give the lobbyists' clients the advantage of access to information that is not readily available. This may compromise the public interest.

- 2.77 The Supply Manual of PWGSC partly addresses this issue. It states that to ensure the integrity of the competitive process for any procurement under its control, enquiries and other communications are, from the date when bids are solicited until the date when a contract is awarded, to be directed only to the PWGSC contracting officer responsible for the procurement and not to other government officials. It also states that any significant information about the proposed procurement that is given to one supplier after the solicitation of bids must be given to all other interested suppliers in adequate time for them to consider it.
- 2.78 These principles need to be expanded to cover all stages of procurement, including activities before bid solicitation—for example, when the specifications for goods and services are being developed. Appropriate government policies based on these principles are needed for grants and contributions, regulation, and policy development.
- **2.79 Recommendation.** The government should protect the public interest by affirming the principle that any significant information given to one party by public office holders at any stage of the process for procurement, grants and contributions, regulation, or policy development must be available to all known interested parties.

Values and ethics in procurement and grants and contributions

- 2.80 Our October 2000 Report recommended that departments establish comprehensive values and ethics initiatives. Our current study reviewed the extent to which certain components of a comprehensive values and ethics initiative were present in departments and agencies responsible for procurements and for large grants and contributions programs.
- 2.81 The departments we reviewed were PWGSC, National Defence, HRDC, and Industry Canada, as well as related agencies such as the Atlantic Canada Opportunities Agency (ACOA), Canada Economic Development for Quebec Regions, and Western Economic Diversification Canada.

Progress is being made overall, but it is slow

- 2.82 Sound values and ethics and financial and management controls are needed to maintain probity in government. Overall, agencies responsible for major procurements and for grant and contribution programs are making progress in developing and implementing comprehensive values and ethics initiatives. Based on the state of departmental activities at July 2003, however, that progress is still slow.
- **2.83 Procurement.** PWGSC and National Defence are responsible for major government procurements. We found in October 2000 that they had the most comprehensive values and ethics programs, and they still do. Each has
 - · a departmental statement of values and ethics,
 - a program office,
 - an advisory board,
 - · a senior champion of values and ethics,

- a significant course in values and ethics,
- inclusion of values and ethics in the performance appraisal criteria for most senior managers, and
- · staff surveys of values and ethics.
- Each department is also developing an approach to evaluating the effectiveness of its values and ethics program. PWGSC has reviewed elements of its program strategy and it plans to complete an evaluation of the effectiveness of its program by 31 March 2004. We believe that the results of these evaluations should be reported to Parliament. We have recommended that the Treasury Board Secretariat develop a model for a comprehensive values and ethics initiative. The programs of these two departments could be used by the Secretariat as a starting point to develop such a model that takes into account the risks faced by departments.
- PWGSC officials are responsible for following the procurement process as laid out in the Supply Manual. However, they do not certify that the process has been followed. They certify only that terms and conditions of contracts are in accordance with departmental policies, regulations, and directives. This means the certification does not cover other important parts of the procurement process—for example, the solicitation and evaluation of bids.
- PWGSC is developing a procurement quality assurance system to improve the contracting process. In looking at ways to improve the procurement process, the Department considered the findings of several departmental internal audits between 1996 and 2001. These findings included serious instances of non-compliance with policies designed to ensure the clarity and completeness of bid solicitations and the accuracy and fairness of bid evaluations.
- PWGSC plans to finish testing its quality assurance system by 31 October 2003 and plans to ask for funds to implement the system in 2004-05. However, it has not yet been decided whether the system will require certification by officials at key stages in the procurement process that the Supply Manual requirements have been followed.
- In September 2000, the Treasury Board Secretariat established an initiative to develop and implement a professional development and certification program for the large and diverse community responsible for government procurement, materiel management, and real property management. The Treasury Board Secretariat estimates that there could be as many as 10,000 officials carrying out these responsibilities; it is in the process of conducting a demographic study of these officials. The Secretariat told us that it plans to complete the course material and the certification component of the program in spring 2004. The curriculum includes material on values and ethics. The Secretariat added that how and when the program will be delivered will depend on the establishment of the School of the Public Service as proposed in Bill C-25, The Public Service Modernization Act.

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- **2.89** In 2002 the Secretariat, in consultation with departments responsible for procurement, developed a draft framework for ethical decision making and a draft values and ethics statement for the procurement function. At the time of writing, it estimated that about 1,400 officials responsible for procurement, materiel management, and real property had received some training in values and ethics.
- 2.90 Grants and contributions programs. Following an internal audit report on problems in its grants and contributions program, in 1999 HRDC established a life cycle process and a quality assurance tracking system to ensure that its grants and contributions process is followed. The new system is part of an HRDC approach to strike a balance between client service and good financial management practices. These developments enhance accountability by requiring officials to certify compliance with the grants and contributions policy and process. With respect to values and ethics, HRDC has taken many of the same steps as PWGSC and National Defence. However, its values and ethics champion, program office, and advisory board were not substantially in place at the time of our examination, and it has discontinued staff surveys of values and ethics. A new values and ethics champion was appointed in August 2003, and in September 2003 the Department's Human Resources Planning Committee assumed responsibility for providing values and ethics leadership.
- 2.91 In addition, during 2002–03 HRDC received funds from the Treasury Board Secretariat to develop an internal audit methodology for departments to assess whether key management elements of modern comptrollership, including strengthening values and ethics, are in place; the methodology is being tested in HRDC. However, assessing the effectiveness of modern comptrollership pillars such as values and ethics is not part of the audit methodology. HRDC planned to provide a final report on the project in October 2003.
- **2.92** Industry Canada relies on its program services board to ensure prudence and probity in issuing grants and contributions. The board makes recommendations to the Deputy Minister and the Minister for approval of grants and contributions.
- 2.93 Industry Canada's values and ethics initiative is in a formative stage; its Comptroller's Branch, which co-ordinates such initiatives, plans to develop a departmental statement of values and ethics by 2004–05. Other agencies such as ACOA have also taken some steps but do not have comprehensive values and ethics initiatives.
- 2.94 We believe the quality assurance systems established by HRDC and Industry Canada have enhanced accountability by requiring officials to certify that government policies have been followed at key stages of decision making.
- 2.95 The Treasury Board Secretariat has not established a professional development and certification initiative for officials responsible for grants and contributions programs. It informed us that there is no grants and contributions community requiring certification. It stated that this

community is "not a recognized professional community in the same sense as the financial management, procurement, or real property community, for example." However, the Secretariat is encouraging the development of training programs for such officials.

Recommendation. To enhance accountability and protect the public interest, the government should require all departments and agencies responsible for procurement and for large grants and contributions programs to develop quality assurance systems that provide departmental management with appropriate assurance, including certifications at key stages of decision making, that procurement and grants and contributions policies and processes have been followed.

Getting at the root causes

- The government has instituted several initiatives to enhance accountability and values and ethics for ministers, deputy ministers, and public servants. However, it needs to determine the root causes of problems in major government programs. It is not clear whether its initiatives will succeed unless the obstacles are identified and addressed.
- The government needs answers to why there have been problems in major government programs, for example:
 - Were the responsibilities and accountabilities of ministers, deputies, and other officials not sufficiently clear?
 - Were fundamental values and ethics not adhered to?
 - Was there perceived or actual direction that compromised program integrity?
 - Were results achieved at the cost of due diligence?
 - · Were oversight mechanisms ineffective, particularly those exercised by central agencies?
 - Were resources and expertise not sufficient?
- The government also needs to know
 - the nature and pervasiveness of the problems,
 - why senior officials did not intervene to prevent or correct the problems,
 - whether persons responsible for the problems were identified and held accountable, and
 - what steps were taken to prevent the reoccurrence of the problems.
- 2.100 We believe that an independent, in-depth examination of these and other related matters is urgently needed.
- 2.101 Recommendation. The government should, as an urgent matter, initiate independent, in-depth examinations to determine the root causes of problems in major government programs. It should report the results of these examinations to Parliament along with the steps it has taken to prevent their

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Conclusion

2.102 In our view, Canadians deserve the highest standards of accountability and ethics in the government's conduct of public business. The government has issued *Guide for Ministers and Secretaries of State, Guidance for Deputy Ministers*, a management accountability framework for deputy ministers, and a values and ethics code for the public service. The documents deal with questions that are central to maintaining trust in government. We believe the documents provide an opportunity to examine the appropriateness and effectiveness of some of the basic ways ministers and senior public servants can be held to account for their decisions. We believe that to strengthen accountability and ethics in government,

- leadership for values and ethics by elected officials and senior public servants must be uncompromising,
- responsibility and accountability for decisions need to be clear,
- values and ethics need to better integrated into day-to-day operations,
- public servants need a robust, credible mechanism for dealing with cases of wrongdoing, and
- the government needs to determine the root causes of major problems in government programs and take steps to prevent their reoccurrence.

The federal government's response. The Guide for Ministers and Secretaries of State and Guidance for Deputy Ministers have clarified that the government's approach to implementing accountability is based on the system of ministerial responsibility in place in Canada and other Westminsterstyle jurisdictions for over a century. This system recognizes that only the person to whom responsibility and authority are assigned can take action. Consequently, incumbent Ministers are accountable to the House for their departments, including for any corrective action required to address problems that may have occurred prior to their appointment. This principle also governs the practices of the House of Commons, as defined over time by practice, precedents and statements by various Speakers of the House. Speakers have consistently ruled that Ministers may be questioned only in relation to current portfolios.

Guidance is equally clear that Deputy Ministers' accountability is exercised within the same framework of ministerial responsibility, and Ministers are responsible for their departments, acts done or left undone in their name by departmental officials, and departmental financial and administrative practices. The requirement that Deputy Ministers "should personally appear before parliamentary committees to give an account of their stewardship of the department" should be seen in the overall context of the Minister's accountability to Parliament, with Deputy Ministers appearing on behalf of the Minister. Treasury Board Secretariat is implementing the Management Accountability Framework which will assist Deputies in reporting on departmental stewardship.

About the Study

Objectives

The objectives of the study were the following:

- to examine the government's action on our October 2000 recommendations for comprehensive governmentwide values and ethics initiatives and
- to examine values and ethics initiatives in departments responsible for major procurements and for grants and contributions programs.

Scope and approach

This study reviewed the government's action on the recommendations made in our October 2000 Report, Chapter 12, Values and Ethics in the Public Sector, for government-wide and departmental actions to promote values and ethics in the public sector. Similar recommendations were made in our May 1995 Report, Chapter 1, Ethics and Fraud Awareness in Government; the government's A Strong Foundation: Report of the Task Force on Public Service Values and Ethics (the 1996 Tait Report); and the Principles for Managing Ethics in the Public Service, developed in 1998 by the Organisation for Economic Cooperation and Development (OECD). It also builds on our work on accountability that we reported in our December 2002 Report chapter, Modernizing Accountability in the Public Sector.

We examined the values and ethics initiatives undertaken by the Treasury Board Secretariat, the Privy Council Office, the Canadian Centre for Management Development, and key departments responsible for procurement and for grants and contributions—National Defence, Public Works and Government Services Canada, Human Resources Development Canada, and Industry Canada, as well as associated agencies such as the Atlantic Canada Opportunities Agency, Canada Economic Development for Quebec Regions, and Western Economic Diversification Canada.

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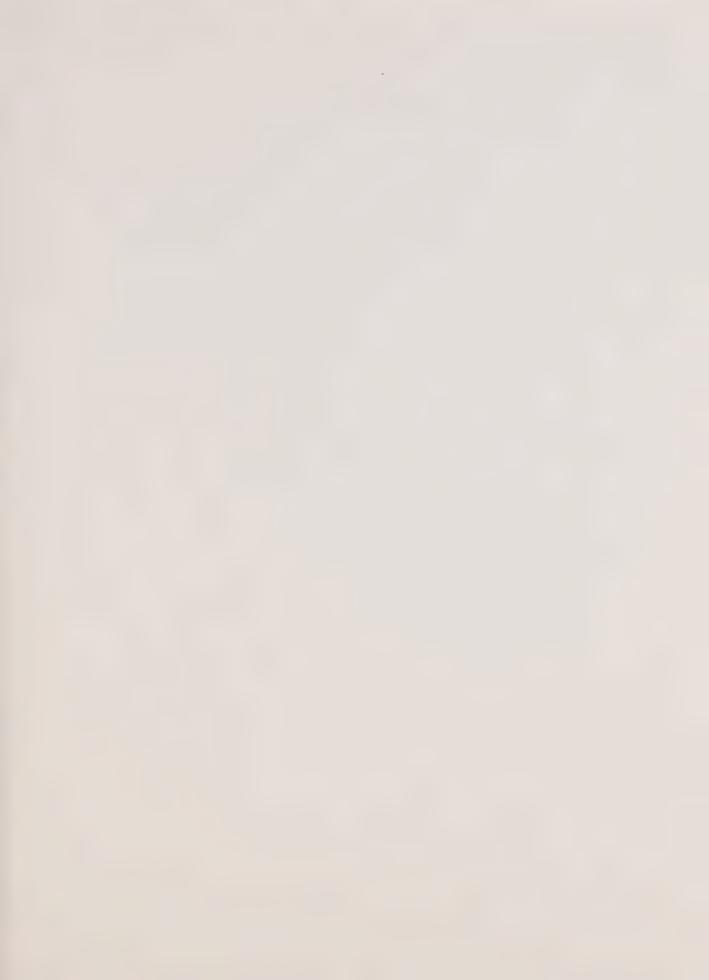
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Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research

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Chapter 4
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2003



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to the House of Commons

NOVEMBER

Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research

Chapter 3
The Sponsorship Program

Chapter 4
Advertising Activities

Chapter 5Management of Public Opinion Research





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The November 2003 Report of the Auditor General of Canada comprises ten chapters, Matters of Special Importance—2003, a Foreword, Main Points, and Appendices. The main table of contents is found at the end of this publication.

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Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.	



Government-Wide Audit of Sponsorship, Advertising, and Public Opinion Research

Overall Main Points

- 1 We found that the federal government ran the Sponsorship Program in a way that showed little regard for Parliament, the *Financial Administration Act*, contracting rules and regulations, transparency, and value for money. These arrangements—involving multiple transactions with multiple companies, artificial invoices and contracts, or no written contracts at all—appear to have been designed to pay commissions to communications agencies while hiding the source of funding and the true substance of the transactions.
- 2 We found widespread non-compliance with contracting rules in the management of the federal government's Sponsorship Program, at every stage of the process. Rules for selecting communications agencies, managing contracts, and measuring and reporting results were broken or ignored. These violations were neither detected, prevented, nor reported for over four years because of the almost total collapse of oversight mechanisms and essential controls. During that period, the program consumed \$250 million of taxpayers' money, over \$100 million of it going to communications agencies as fees and commissions.
- 3 Public servants also broke the rules in selecting communications agencies for the government's advertising activities. Most agencies were selected in a manner that did not meet the requirements of the government's contracting policy. In some cases, we could find no evidence that a selection process was conducted at all.
- 4 The government's communications policy states that federal institutions must suspend their advertising during general federal elections. We noted that the policy was properly implemented.
- 5 Overall, public opinion research was managed transparently, with roles and responsibilities clearly defined. However, there were some cases in which departments did not establish a clear statement of the need to undertake a public opinion research project. In a small number of troubling cases, we noted that the government had failed to follow its own guidelines in effect at the time and had paid for syndicated research that monitored, among other things, voting behaviour and political party image.
- 6 While these chapters contain the names of various contractors, it must be noted that our conclusions about management practices and actions refer only to those of public servants. The rules and regulations we refer to are those that apply to public servants; they do not apply to contractors. We did

not audit the records of the private sector contractors. Consequently, our conclusions cannot and do not pertain to any practices that contractors followed.

The Privy Council Office, on behalf of the government, has responded. The entities we audited agree with the findings contained in chapters 3, 4, and 5. Our recommendations and the detailed responses follow.

Recommendations

The observations contained in chapters 3, 4, and 5 of our Report are serious. Action is required in many areas, both in Crown corporations and across government departments.

Recommendation. The government should ensure the development of an action plan for sponsorship, advertising, and public opinion research activities that addresses all of the observations in the three chapters.

As noted in the report the government has undertaken a number of actions to strengthen the management of the sponsorship, advertising, and public opinion research activities. Continued effort is required by the government to ensure that these improvements are sustained. In particular the government should continue to ensure that

- public servants understand their obligations and comply with the Financial Administration Act, and
- public servants who are given responsibility for managing advertising activities have the necessary specialized expertise in the subject matter.

In addition, the action plan should include details of actions the government will take to ensure that

- any operating units established to undertake new activities do so with proper control, accountability, and transparency;
- public servants discharge their contracting responsibilities in a manner that complies with the Government Contracts Regulations and Treasury Board policies and that Public Works and Government Services Canada complies with its own policies and stands the test of public scrutiny in matters of prudence and probity, facilitates access, encourages competition, and reflects fairness in the spending of public funds;
- parliamentary appropriations are respected;
- any transfers of funds between government entities are conducted with transparency and efficiency;
- arm's-length relationships are maintained between Crown corporations and government departments; and
- action is taken on issues raised in any other review or investigation conducted by the government or by other agencies.

The action plan should specify time frames, accountabilities, and any recovery action or sanctions that the government decides to impose.

The government's response. The Government of Canada is deeply concerned about the findings contained in these audits and takes the issues raised in them very seriously. The government has taken action on most of the issues and will take action on any new issues raised.

The government has been working over the past several years to address the issues observed in these audits. The government is committed to excellence in management, and it continues to make significant progress in modernizing and strengthening its management practices, based on a strong partnership between Treasury Board Secretariat and government departments. It has implemented a broad-based government-wide agenda to strengthen and modernize management, including a new Management Accountability Framework for the public service, Guidance for Deputy Ministers, and a new Values and Ethics Code for the Public Service.

The government's commitments are reflected in its leadership in undertaking the Public Works and Government Services Canada 2000 internal audit of sponsorships and by acting on its findings. When it became apparent that there were further issues, the Minister of Public Works and Government Services requested that the Auditor General examine three specific contracts awarded in 1996, 1998, and 1999. The Minister also imposed a moratorium on any new sponsorships in May 2002, and then set up an interim program to eliminate the use of communication agencies. These efforts were followed by a complete and detailed review of sponsorship program files, and remedial actions including withholding and recovering monies, in bringing issues to the attention of the appropriate authorities, and in addressing program design and management issues.

While these efforts were underway, in 2002 the Treasury Board Secretariat, in collaboration with Public Works and Government Services Canada and Communication Canada, conducted a comprehensive review of the sponsorship, advertising and public opinion research programs.

In response to the recommendations of that review, the government looked to the future by implementing a completely new management and accountability regime for the Sponsorship Program as of 1 April 2003, and which requires a complete review before any extension beyond 31 March 2004.

A comprehensive action plan was also put in place with respect to advertising management practices guided by the objectives of transparency, accountability, value for money and increased competition. Communication Canada has established a core centre of expertise which continues to implement the plan that the Minister of Public Works and Government Services announced on 28 April 2003.

Beyond the other two programs, there were also recommendations made with respect to the management of public opinion research in government. Since

that time, Communication Canada has been working to fulfill and to meet the recommendations of the reviews.

In May 2002, the Secretary of the Treasury Board wrote to each Deputy Minister regarding expenditures related to the three activities which are the focus of these chapters, along with a request for an assessment of management capacity and adherence to the *Financial Administration Act*. A copy of the letter, as well as the departmental replies, were provided to the Office of the Auditor General in the course of the audits which follows.

The government's actions to date are fully outlined in a detailed and comprehensive response to the Tenth Report of the Standing Committee on Public Accounts, which can be found at: http://www.tbs-sct.gc.ca/report/gr-rg/grtr-rgdr_e.asp

The government will review further these audits to ensure that any additional issues are addressed. This includes ensuring that departments have appropriate management regimes in place when undertaking initiatives with Crown corporations.

The government has demonstrated by its actions the seriousness with which it takes any evidence of alleged misconduct or mismanagement of public funds, by responding to all reviews and investigations, by government or by other agencies, including efforts to recover any misappropriated funds, and employee discipline ranging from reprimands to loss of employment, including involving the appropriate authorities where warranted.

The government is committed to continuing to work diligently on the implementation of specific measures to address these issues.

Chapter

3

The Sponsorship Program

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The Sponsorship Program

Main Points

- **3.1** From 1997 until 31 August 2001, the federal government ran the Sponsorship Program in a way that showed little regard for Parliament, the *Financial Administration Act*, contracting rules and regulations, transparency, and value for money:
 - Parliament was not informed of the program's objectives or the results it achieved and was misinformed as to how the program was being managed.
 - Those responsible for managing the program broke the government's own rules in the way they selected communications agencies and awarded contracts to them.
 - Partnership arrangements between government entities are not unusual
 in programs of mutual benefit. However, some sponsorship funds were
 transferred to Crown corporations using unusual methods that appear
 designed to provide significant commissions to communications
 agencies, while hiding the source of funds and the true nature of the
 transactions.
 - Documentation was very poor and there was little evidence of analysis
 to support the expenditure of more than \$250 million. Over
 \$100 million of that was paid to communications agencies as production
 fees and commissions.
 - Oversight mechanisms and essential controls at Public Works and Government Services Canada failed to detect, prevent, or report violations.
- 3.2 Since Communications Canada's creation in September 2001, there have been significant improvements in the program's management, including better documentation and more rigorous enforcement of contract requirements.

Background and other observations

3.3 A new sponsorship program has been announced that, if properly implemented, will improve transparency and accountability. For example, the program will be delivered using contribution agreements with event organizers directly rather than contracts with communications agencies. Whatever mechanisms are used, Parliament needs to be assured that public funds are being administered in compliance with the rules and in a manner that ensures fairness, transparency, and the best possible value for money.

While this chapter includes the names of various contractors, it must be noted that our conclusions about management practices and actions refer only to those of public servants. The rules and regulations we refer to are those that apply to public servants; they do not apply to contractors. We did not audit the records of the private sector contractors. Consequently, our conclusions cannot and do not pertain to any practices that contractors followed.

The Privy Council Office, on behalf of the government, has responded. The entities we audited agree with the findings contained in chapters 3, 4 and 5. Our recommendations and the detailed responses appear in the Overall Main Points at the beginning of this booklet.

Introduction

Origins of the Sponsorship Program

- In November 1997, a new branch of Public Works and Government Services Canada (PWGSC) was created as a result of concerns about the federal presence and visibility across Canada, the effectiveness of the federal government's communications activities, and the need for an integrated structure to deliver those activities. The mandate of the new Communications Co-ordination Services Branch (CCSB) was to co-ordinate. promote, advise, and facilitate federal communications initiatives.
- One vehicle for delivering that mandate was the Sponsorship Program, created in 1997. Sponsorships were arrangements in which the Government of Canada provided organizations with financial resources to support cultural and community events. In exchange, the organizations agreed to provide visibility by, for example, using the Canada wordmark and other symbols such as the Canadian flag at their events, and on promotional material.
- Sponsorships were intended to encourage a positive perception of the 3.7 government through its association with popular events and organizations in fields such as sports and culture. They would also increase the federal presence and visibility in communities across Canada. From 1997 until 31 March 2003, the Government of Canada spent about \$250 million to sponsor 1.987 events (Exhibit 3.1). Over \$100 million of that (40 percent of total expenditures) was paid to communications agencies as production fees

and commissions.

Expenditures (\$ millions)

Exhibit 3.1 Sponsorship Program—Expenditures and events sponsored



Source: Communication Canada

CCSB---In this chapter CCSB refers to the former branch of PWGSC and not to any other branch of the same name in other departments.

- Sponsorships were to be managed in two distinct ways, depending on their dollar value. Those valued at less than \$25,000 were to be managed only by a communications agency contracted by CCSB; for sponsorships over \$25,000, CCSB was to contract both with an agency of record to provide financial management services on behalf of CCSB and with a communications agency.
- In March 2002, the Minister of Public Works and Government Services asked the Office of the Auditor General to audit the government's handling of three contracts totalling \$1.6 million that had been awarded to Groupaction Marketing (Groupaction), a communications agency based in Montréal. The audit report, presented to the Minister on 6 May 2002, revealed significant shortcomings at all stages of the contract management process.
- The nature of the findings was such that the Auditor General referred the matter to the RCMP and also decided to undertake a government-wide audit of the Sponsorship Program (as well as the public opinion research and advertising activities of the Government of Canada, including those of Crown corporations—see chapters 4 and 5 of this Report).

Focus of the audit

- Our audit examined the management of the Sponsorship Program by CCSB up to 31 August 2001, when Communication Canada was created by the amalgamation of CCSB and the Canada Information Office; we examined the subsequent management of the program by Communication Canada. We looked at whether the program complied with the federal government's regulations and policies that govern contracting and the proper handling of public money. We assessed the program's design, the management of individual sponsorship projects, and the measurement of project and program results. We also assessed the quality of documentation in the files. We selected a sample of sponsorship projects and reviewed them in detail. We also interviewed staff and former staff of the Sponsorship Program.
- Further, we selected a sample of transactions involving payments by CCSB to Crown entities, including Crown corporations. We audited the way both CCSB and the Crown entities managed the transactions. At the conclusion of the audit, we also interviewed two former ministers and a former deputy minister of PWGSC who had been involved in the Sponsorship Program. Further details are found at the end of the chapter in About the Audit.
- It must be noted that our conclusions about the management practices and actions for contracting refer to those of public servants. The rules and regulations we refer to are those that apply to public servants; they do not apply to contractors. We did not audit the records of the private contractors. Consequently, our conclusions cannot and do not pertain to any practices that contractors followed.

Observations

Parliament was not informed of the Sponsorship Program's true objectives

- 3.14 When it created the Sponsorship Program, the federal government did not inform Parliament of the program's real objectives; nor has it ever reported the results. Former officials of CCSB told us that after the 1995 Quebec referendum, the government wanted to raise its profile in Quebec by sponsoring local events and so it set up the Sponsorship Program. However, we saw no such direction from the government and no formal analysis or strategic plan. In the absence of any written direction from the Deputy Minister or the Executive Committee of PWGSC and any written decision by the Cabinet or the Treasury Board, it is not clear to us how the decision to create the program was made, and by whom. Nor is it clear why the decision was not communicated in writing.
- 3.15 However, the Treasury Board approved increased funding for PWGSC's communications activities in order to promote the government's programs and services following the Quebec referendum. PWGSC had to ensure that initiatives conformed to Treasury Board policies and guidelines; that all communications services would be competitive, as required; and that contracts would be issued appropriately.
- **3.16** We found that PWGSC failed to ensure that before allocating funds, it had established an adequate control and oversight framework for the Sponsorship Program. Even though communication was a ministerial priority, the *Financial Administration Act* still applied.
- 3.17 We were informed that the program was promoted in Quebec but not elsewhere in Canada. As people outside Quebec became aware of the program, the government received some applications and approved some sponsorships of some events in other provinces. However, from 1997 to 2000, the vast majority of regional events sponsored were in Quebec.
- 3.18 We reviewed PWGSC's performance reports. None of them mentioned the program until 2001, even though sponsorships accounted for more than half of CCSB's annual spending. The 2001 *Performance Report* discussed the Sponsorship Program but made no reference to its objectives and its emphasis on events in Quebec. It simply stated that 291 events had been sponsored across Canada. Parliament was not informed that the primary focus of the program was on Quebec.
- 3.19 Given the importance of the objectives described to us by officials and the significance of the program's spending (more than \$250 million from 1997 to March 2003), we would have expected the government to provide Parliament with at least a description of the program, its objectives, its expenditures, and the results it achieved.

Program controls and oversight

Few people involved in delivering the program

- 3.20 Normally, central divisions of PWGSC manage the procurement and financial activities of that Department's branches. For the Sponsorship Program, however, contracting and financial management were handled by the CCSB and not a central division. CCSB's Executive Director reported to the Deputy Minister of PWGSC and had direct access to the Minister and his staff, which further reduced normal control and oversight provisions.
- **3.21** Staff of CCSB told us that an Executive Director had not involved them in making decisions on sponsorships. They described to us the following process (much of this was confirmed to us by a former Minister of Public Works and Government Services):
 - CCSB contracted with a communications agency to identify potential sponsorship opportunities in Quebec. The agency provided some information verbally, but there are no written records of that information.
 - CCSB received unsolicited sponsorship proposals from a number of sources, including other government departments, event/activity/project organizers, communications agencies, community groups, and non-governmental organizations. Some requests were made to the Minister and forwarded to CCSB.
 - The Executive Director of CCSB reviewed the requests and decided which events would be sponsored and which communications agency would get the contract. Project files were discussed with the Minister's office at various times.
 - At the request of the Executive Director, program staff prepared the requisition and forwarded it to CCSB's procurement staff, who completed the contract.
 - The Executive Director approved the payments to the contracted communications agencies.

These procedures violate two fundamental principles of internal control: segregation of duties and appropriate oversight.

Weak control environment

3.22 In Results for Canadians, the management framework for the federal government, the Treasury Board states that departments and agencies are responsible for ensuring that they have adequate management frameworks to achieve results and manage resources. This means, among other things, that they must maintain robust internal controls and be vigilant to detect early any conditions that could lead to a control failure. The Sponsorship Program operated in a weak control environment: procurement and financial activities were handled within CCSB with little oversight by PWGSC's central services, communications agencies and events to be sponsored were selected by only a few individuals, and the same individuals who approved the projects also

approved invoices for payment. Roles and responsibilities were not segregated to eliminate, as far as possible, any opportunities for fraud and misstatement or an override of controls by management.

3.23 No written program guidelines. Written guidelines can be a key tool for delivering any program consistently, fairly, and transparently: they can provide clear criteria for eligibility, set out the conditions attached to financial support, and in this case, provide guidance on levels of sponsorship. We noted that the Sponsorship Program operated with no guidelines from its inception in 1997 until 1 April 2000, resulting in ad hoc selection and approval of projects and decisions on levels of sponsorship funding. In our review of files, we found it impossible in most cases to determine why an event was selected for sponsorship, how the dollar value of a sponsorship was determined, or what federal visibility the sponsorship would achieve.

Lack of transparency in decision making

- 3.24 To understand how decisions had been made, given that they were rarely documented, we interviewed staff who had been involved in the Sponsorship Program. Apparently only a handful of people had participated in decision making, and those who remain at PWGSC, Communication Canada, and other government departments were unable to tell us why certain decisions had been made.
- **3.25** They noted that the Executive Director had discussed sponsorship issues with the Minister. A retired Executive Director told us that his discussions with the Minister were only to provide information. He said that he and his staff had decided what events would be sponsored and at what level. He told us that he had also relied on verbal advice from a communications agency but had not documented that advice.
- 3.26 The former Minister stated that his office had not decided which events to sponsor. He confirmed that there had been no written objectives or guidelines but also stated that the program had been part of the national unity strategy.
- 3.27 We found a memo in one file indicating that the Minister's office had overturned a decision by program staff not to sponsor an event; the memo said the Minister's office would inform the event's organizer. The file did not show who in the Minister's office had made the decision and why, or how the level of sponsorship funding had been determined.
- 3.28 Another recipient of funding said his request had been denied initially. At the Executive Director's suggestion, he discussed the matter with the Minister's office. The decision was reversed, and funding was approved. We found no documentation in the files to support this change of decision.
- 3.29 It is clear from our discussions with a former Minister and the retired Executive Director that there were discussions from time to time between the Executive Director, the Minister, and the Minister's staff. The absence of documentation prevents us from determining the extent or the appropriateness of those discussions; the files did not indicate their results.

Sponsorship funds to Crown entities

Transactions designed to hide sources of funding to Crown entities

- In the course of our audit, we noted that CCSB and subsequently Communication Canada had paid sponsorship funds to certain Crown corporations. We selected all such transactions that related to Business Development Bank of Canada, Canada Mortgage and Housing Corporation, Canadian Tourism Commission, Old Port of Montreal Corporation Inc., National Arts Centre Corporation, National Capital Commission, and VIA Rail Canada Inc. Our observations on Canada Mortgage and Housing Corporation and Canadian Tourism Commission are reported in Chapter 4 of this Report.
- 3.31 We also audited transactions involving Canada Lands Company Limited/ Parc Downsview Park Inc. and the Royal Canadian Mint. In these two Crown corporations and in the National Arts Centre and the National Capital Commission, we noted no significant observations to report to Parliament.
- Through an order-in-council, we were able to audit selected 3.32 sponsorship transactions at Canada Post Corporation. However, our Office did not audit the sponsorship/marketing program of Canada Post Corporation in its entirety. Given the nature of our findings in a small sample, we have suggested to Canada Post Corporation that it undertake an audit of its full sponsorship/marketing program and report the results of the audit to its Board of Directors.
- In addition, we audited transfers of money by CCSB to other federal entities.
- 3.34 Partnership arrangements between government entities are not unusual in programs of mutual benefit. Normally an agreement states the roles and responsibilities of each entity, the limits of its financial commitment, and the benefits it expects to achieve. The required funds are usually transferred between entities through a journal voucher or paid directly by cheque.
- Many of the transfers by CCSB to Crown entities were made through communications agencies, who were paid commissions to move the money. We believe that none of the agencies was selected properly, and in many cases there is little evidence of the value the Crown received.
- Our audit found that CCSB had no agreements or partnership arrangements with the Crown corporations whose programs it sponsored. It used highly complicated and questionable methods to transfer sponsorship funds. Some payments were based on artificial invoices and contracts; others were subsidies—sponsorship money used by the Crown corporations to cover their normal operating costs.
- CCSB made payments to Crown corporations through communications agencies with whom it had to contract, rather than transferring the funds to the corporations directly. If the Sponsorship Program had been framed under the transfer payments policy as a contribution, an approved program framework including specific eligibility criteria, terms and

conditions, and a more structured approach to providing information to Parliament would have been required. We believe that it was inappropriate for such transfers to be undertaken through communications agencies or using procurement contracts.

- **3.38** The Treasury Board's Policy on Transfer Payments stipulates that "where a department is considering a grant, contribution, or other transfer payment to a Crown corporation . . . , there must be prior consultation with the Treasury Board Secretariat . . . to ensure that a grant, contribution or other transfer payment is not, and does not become, a substitute for financing a corporation's operating or capital requirements."
- 3.39 Irrespective of the transfer mechanism used, almost none of the Crown corporation transfers were supported by a business case. CCSB should have sought appropriate legislative authority and transferred the funds directly, by means of a contribution agreement. This would have eliminated the payment of significant commissions and would have required that CCSB obtain authority from the Treasury Board to make the transfers. Treasury Board Secretariat's officials stated that since the money was transferred using a contract, the transfer payments policy is not the applicable audit standard for the Sponsorship Program. However, in our view, the policy not only covers grants and contributions but also "other transfer payments." In our opinion, CCSB violated the intent of the transfer payments policy.

Questionable value for money

- 3.40 In exchange for receiving sponsorship funds, Crown corporations and departments were to provide visibility for the Government of Canada. In 1998, the Treasury Board's policy on the Federal Identity Program was amended to require Crown corporations (which previously had been exempted) to apply the Canada wordmark prominently on all their corporate identity applications. Given that requirement, we question why CCSB needed to pay Crown corporations for providing visibility, particularly in those cases where we found no documented evidence of any additional visibility purchased with sponsorship funds.
- 3.41 In several of the transactions we audited, we found that CCSB officials had contravened rules, regulations, and the *Financial Administration Act*. They also displayed a lack of concern for obtaining the best value for the Crown. The cases on pages 10–20 elaborate on these findings. They also illustrate that some officials of Crown entities participated in the mismanagement of public funds. Each case is presented with a diagram that shows the flow of money to explain the nature of the transaction.

Transactions with Crown entities are cause for concern

Sponsorship of television series

Around 1998, PWGSC's Communications Coordination Services Branch (CCSB) agreed verbally to sponsor several projects, including television series produced by L'Information essentielle Inc., a private production company in Quebec. We do not question the merits of these series, nor do we question any of the actions of L'Information essentielle.

A representative of L'Information essentielle told us the following:

- He had approached the Executive Director of CCSB about having the Government of Canada sponsor three different television series.
- The Executive Director agreed, and verbally committed the government to funding that included \$7.5 million for a series on Maurice Richard, \$1.2 million for Le Canada du Millénaire, and funding for a series called 'Innovation.'
- No business case was presented; the Government of Canada did not sign a contract with the company; and no other
 documentation or exchange of correspondence between the government and L'Information essentielle reflected these commitments.

Maurice Richard Series-1998 to 2000

Funds advanced to a private sector company on the basis of verbal agreements

According to a representative of L'Information essentielle, he was told by CCSB's Executive Director that the company would receive \$7.5 million in sponsorship funds, from a variety of sources for the Maurice Richard series. Subsequently, the Executive Director told L'Information essentielle to contact VIA Rail and Canada Post for portions of the funds; the rest would be transferred from CCSB to L'Information essentielle

through a number of communications agencies.

VIA Rail. VIA told us that initially it had turned down the request by L'Information essentielle. Later in 1998, however, CCSB asked VIA to advance the money on the understanding that it would be reimbursed once PWGSC received supplementary funding from Parliament (it did not have money in its current appropriation). VIA Rail's President informed us that he had agreed to advance the money to

L'Information essentielle based on a verbal agreement with the Executive Director of CCSB.

He added that in his opinion, if CCSB had been unable to reimburse VIA Rail, VIA would nevertheless have received full value for its expenditure in the form of valuable visibility on the television series. VIA Rail was unable to provide us with a business case or any other analysis prepared at the time to show how the decision was made or what results were expected.



^{*}Figures do not include GST and PST (when applicable

On 7 December 1998, L'Information essentielle invoiced VIA Rail the sum of \$650,000 plus taxes as production costs for the Maurice Richard series. On 31 August 1999, L'Information essentielle sent VIA two identical bills, each for \$130,000 plus taxes. A representative of L'Information essentielle informed us that his company had invoiced VIA Rail on the instruction of CCSB's Executive Director. He further stated that the two invoices for identical amounts had been issued to VIA Rail on the same day because VIA had asked for two invoices.

VIA Rail paid L'Information essentielle for all three invoices, a total of \$910,000 plus taxes, without a contract with L'Information essentielle. VIA Rail recorded the \$910,000 as an accounts receivable from the Government of Canada (this was reflected in VIA's financial statements for 1999).

Later in 1999, the Executive Director of CCSB with whom VIA had a verbal agreement retired. The President of VIA Rail informed us that he had negotiated with CCSB's new Executive Director to recover the amount that VIA Rail had advanced. While VIA Rail's financial records show that the entire \$910,000 had been recorded as a receivable, the President informed us that it was his understanding that only \$750,000 would be recovered from CCSB.

In December 1999, CCSB entered into a contract with Lafleur Communication for \$862,500 in production services, but the real purpose was to reimburse VIA Rail. The contract stated that the \$862,500 was for work to be done between 23 December 1999 and 31 March 2000. The contract was worded in very general terms and was not clear on what Lafleur was to deliver. In February 2000 Lafleur invoiced CCSB for \$750,000 plus \$112,500 for the agency's commission of 15 percent—for delivering the cheque.

On 31 March 2000, VIA Rail invoiced Lafleur for \$750,000 plus taxes for sponsorship funding and on the same day VIA received payment by cheque. The VIA invoice mentioned sponsorship

but made no reference to the true substance of the transaction— repayment to VIA for part of the money it had advanced to L'Information essentielle on CCSB's behalf. VIA considered writing off the remaining \$160,000 since it had been set up as an account receivable. However, after its management concluded that VIA had received good visibility from the series, the \$160,000 was finally recorded as an advertising expense.

An internal review by PWGSC in 2002 revealed that when the contract was set up, CCSB staff knew the real purpose: to reimburse VIA Rail for the funds it had advanced to L'Information essentielle the year before for the Maurice Richard series. In our opinion, CCSB created a fictitious contract and made payments of \$862,500 that contravened the *Financial Administration Act*.

In our opinion, given the highly unusual nature of these transactions such as

- the use of scarce VIA Rail funds to advance money to a private sector production company on CCSB's behalf without a contract or other legal obligation to do so, and
- the issuing of a fictitious invoice to a communications agency, Lafleur (which neither had a contract with VIA nor had rendered VIA any services) in order to recover a part of the funds in the full knowledge that any funds recovered would be coming from CCSB,

we would expect that as a minimum, VIA Rail's Board of Directors and especially its Audit Committee would have been informed of these transactions. This did not happen. VIA's management has informed us that the dollar amounts of these transactions did not require its Board's approval.

It appears that these transactions were part of an elaborate process used to obtain funds from current PWGSC appropriations, in order to pay for a highly irregular and questionable expenditure incurred by VIA Rail in the previous year and also to facilitate the payment of a commission to the

communications agency. In our opinion, this resulted in the circumvention of the parliamentary appropriation process.

Canada Post. We are concerned about a lack of documentation to support payments made by Canada Post for the Maurice Richard series, Canada Post paid L'Information essentielle \$1,625,000 (plus taxes) with no signed contract. There was no signed proposal or written business case to support the decision to spend \$1,625,000. Canada Post informed us that it had received a proposal from L'Information essentielle listing costs and benefits, but we found that the proposal was neither signed by L'Information essentielle nor accepted in writing by Canada Post, Canada Post also informed us that it had done a costbenefit analysis, but it provided us with no evidence of this.

Canada Post's sponsorship policy requires that it document the objectives and budget for sponsoring an event and the results it expects to achieve for its investment. Canada Post has agreed that written documentation to support its decision to be a main advertiser on the series would have been desirable. However, Canada Post informed us that it entered into this transaction in order to achieve marketing and not sponsorship objectives. Given that Canada Post was identified as a sponsor on the series and invoices indicate that it was sponsoring the production of the series, we believe that Canada Post should have followed its sponsorship policy and maintained appropriate documentation.

ccsb. Including the money it reimbursed to VIA Rail, CCSB paid L'Information essentielle in total \$2.97 million in sponsorship funds through ten separate contracts with four different communications agencies and an agency of record. CCSB did not have a written contract with L'Information essentielle and we saw no evidence of any rationale for selecting this production firm. We saw no proposal from L'Information essentielle describing the objectives and the total cost of the series.

A representative of L'Information essentielle informed us that no contract had been drawn up with CCSB or anyone else; CCSB's Executive Director had never asked for one. The representative also stated that the four communications agencies neither had any contracts with L'Information essentielle nor did any work for it.

We saw no documents supporting CCSB's decision to spend \$2.97 million on sponsorship for the Maurice Richard television series and no business case indicating the government's total contribution to the production cost and the results the expenditure was expected to achieve. The four agencies and the agency of record received commissions totalling about \$438,000

for simply transferring the money to L'Information essentielle.

Most of the cost of the series was paid by CCSB, and although Canada Post and VIA Rail had several commercial spots throughout the four-hour program, the federal government received visibility only through the appearance of the Canada wordmark in the opening and closing credits. We do not question the artistic merits of the series, nor have we analyzed the value of the visibility it provided to the government. Our concern here is about the large commitments of taxpayers' money made without documented objectives, analyses, and contracts, and with no evaluation of the results by CCSB.

It appears that these transactions were in essence designed to transfer money from CCSB to L'Information essentielle. We found no exchange of correspondence or other documentation between these two organizations. We are concerned about the method used to transfer the funds, which went from CCSB to L'Information essentielle through intermediary organizations. None of the contracts between CCSB and the communications agencies mentioned that the agencies were to transfer the money to L'Information essentielle. The design of these transactions hid the source of the funding and the true substance of the transactions. The parliamentary appropriations process was not respected.

Le Canada du Millénaire Series-1998 to 2000

Unusual methods of funding Millénaire series

From 1998 to 2000, the government paid about \$1.7 million to L'Information essentielle through various funding mechanisms to sponsor *Le Canada du Millénaire*, a series with a total budget of \$2.5 million. CCSB had no written contract with L'Information essentielle.

CCSB used a complex series of funding mechanisms to move the money to L'Information essentielle through communications agencies, Business Development Bank of Canada (a Crown corporation), and private entities. The true nature of the transaction was hidden by the structure of the transfers, which are set out below:

- In 1998, Business Development Bank of Canada (BDC) made two payments totalling \$250,000 directly to L'Information essentielle, without a written contract.
- In July 1998, CCSB gave a total of \$143,750 to two agencies, who paid

- \$125,000 directly to L'Information essentielle and retained the rest as a commission for making the transfer.
- In June 1999, CCSB gave the same two agencies another \$143,750; in March 2000 the agencies transferred \$125,000 to BDC, and on 31 March 2000 BDC issued a cheque for \$125,000 to L'Information essentielle.
- The Canada Information Office (CIO) gave \$1.2 million to BCE Media, who then gave \$1.2 million plus its own contribution to L'Information essentielle for the Millénaire series.

We saw no business case showing what visibility the government was to receive from the series and no analysis of what it did receive. We did not see a postmortem report in the files. Commissions totalling \$37,500 (15 percent) were paid to the two communications agencies for simply transferring money, with little indication that they had added value. We saw no analysis or rationale to explain why CCSB chose to

pay L'Information essentielle through a Crown corporation or through a communications agency.

BDC, the Crown corporation, was used to facilitate the transfer of \$125,000. In January 2000, Lafleur Communication Marketing instructed BDC to invoice Media/I.D.A Vision, CCSB's agency of record, for \$125,000. BDC received that amount from Media/I.D.A Vision and then issued a cheque to L'Information essentielle for \$125,000. BDC officials told us this flow-through transaction was processed on one-time "accommodation" basis on the last day of the CCSB fiscal year given that no BDC funds were involved, and that they had been informed at that time that an administrative error had been made by Media/I.D.A Vision. The BDC officers approving the payment appear to have gone beyond the financial authorities delegated to them. As noted later, in our opinion BDC should review and clarify its delegation policies.

BDC informed us that it had transferred the funds from Media/I.D.A Vision to L'Information essentielle on instructions given in error by Lafleur and that the funds should have been transferred directly by Media/I.D.A Vision to L'Information essentielle, However, BDC complied with these instructions by issuing invoices to Media/I.D.A Vision and in turn paid L'Information essentielle with the money it received. The individuals who prepared those invoices are no longer with BDC and its current management could not explain the reasons for the issuance of invoices and the transfer of funds.

However, in CCSB's files we found that in April 1999, nine months before Lafleur's instructions to BDC, CCSB had entered into contracts with Lafleur and Media/I.D.A Vision for \$125,000 to sponsor the special event/activity

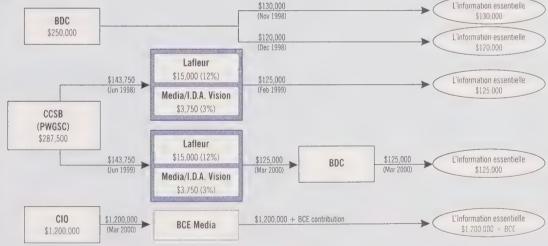
"Millénaire BDC." CCSB paid Media/ I.D.A. Vision \$100,000 in June 1999 and \$25,000 in February 2000; Media/ I.D.A Vision's transfer of \$125,000 to BDC was made in March 2000. It would appear that BDC's participation in the transfer of \$125,000 to L'Information essentielle on 31 March 2000 was not made in error. given that CCSB had contracts and money already in place for the transfer to BDC. We observed that BDC had written to CCSB as early as May 1998 with the L'Information essentielle proposal for Le Canada du Millénaire series.

While we have not received an adequate explanation for BDC's participation in these specific transfers, the files do explain its participation in the sponsorship of the series. BDC expected to receive visibility valued at \$500,000,

half of which it paid; the remaining half was provided by CCSB. In effect, CCSB subsidized the operations of this Crown corporation. CCSB should have asked the Treasury Board for authority to transfer funds to BDC. By not doing so, CCSB violated the intent of the Treasury Board's transfer payment policy.

BDC had no contract or other written agreement with Media/I.D.A Vision, Lafleur Communication Marketing, or L'Information essentielle, and it is most unusual that BDC would receive program funding from a government department. Following changes in BDC's management, we have noted several improvements in its sponsorship activities, as the following discussion of the television series "Innovation" demonstrates.

Money flow*



^{*}Figures do not include GST and PST (when applicable)

Innovation Series-1999 to 2004

Some concerns and some improvements

In this case, according to a representative from L'Information essentielle, CCSB's Executive Director verbally committed the government to providing funds for several television series, including one on innovation. When the Executive Director retired in 1999, his successor at CCSB declined to sponsor the series. Following a discussion between L'Information essentielle and staff in the Minister's office, the government agreed to sponsor the series. We did not see any business case specifying what the government would receive or any analyses to support this decision.

Télémission Information Inc., a company related to L'Information essentielle, approached the Business Development Bank of Canada (BDC) and also requested funding for the series. The process by which this project was approved is unclear. BDC went to Communication Canada (which by then had replaced CCSB) in September 2001 to ask for \$700,000 annually for three years. BDC itself would contribute \$75,000 annually. In October Communication Canada agreed to give BDC \$700,000 annually to help finance the Innovation series. We question the involvement of a Crown corporation in

routing funds from a department to a private sector company, Télémission Information Inc., when the department (Communication Canada) is contributing 90 percent of the funds. We saw no evidence that the Treasury Board was informed about the transfer of departmental funds to a Crown corporation for this series.

In October 2001, the new management at BDC began contract negotiations with Télémission Information Inc. and signed a \$2.325 million, three-year contract in February 2002. Concurrently, BDC signed an agreement with Communication Canada for \$2.1 million which BDC would receive; it would also contribute \$225,000 of its own funds.

BDC explained that because the subject matter of the series—innovation—was a core element of BDC's Corporate Plan, it agreed to manage the project on behalf of Communication Canada and to ensure that the series addressed the theme of innovation, a government priority. Communication Canada would provide a link with 15 federal departments who would contribute \$10,000 each.

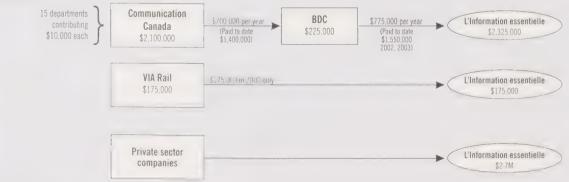
We do not understand why Communication Canada, as the main contributor to the series, does not have a contract with Télémission Information. We are concerned that without a contract, it has no way of ensuring that Télémission Information delivers the benefits expected for the government; Communication Canada is relying on BDC to carry out this responsibility on its behalf.

In a separate agreement with L'Information essentielle, VIA Rail agreed to contribute to the Innovation series and paid \$175,000 for one year, in exchange for four 15-second commercial spots on 104 episodes.

BDC reissued cheques that it received from Communication Canada (\$700,000) to L'Information essentielle rather than to Télémission Information. The BDC officers approving the payment appear to have gone beyond the financial authorities delegated to them.

BDC officials again told us that this transaction was exceptional and was not contemplated by its policy on delegation of authority. BDC decided that the delegation limits did not apply because in its view CCSB was paying \$700,000 and their own costs were only \$75,000. We recommend that the Bank's policy on Delegation of Authority be clarified on that issue so that the aggregate amount of any future such payments would be taken into account.





^{*}Figures do not include GST and PST (when applicable)

Some significant improvements. Unlike the Maurice Richard and Millénaire series, for the Innovation series there is a contract between BDC and Télémission Information Inc. that defines deliverables, a timeline, and terms of payment. There is also a formal agreement between BDC and Communication Canada that describes their respective roles and responsibilities

and the deliverables and costs of the project. No communications agencies were used in the transfer of funds and therefore no commission fees were paid.

As the project manager, BDC is taking steps to ensure that it receives from Télémission Information/L'Information essentielle what it has paid for by monitoring progress against deadlines,

ensuring that deliverables are in accordance with the terms of the contract, and withholding payments when terms have not been met. Overall, we found adequate documentation and transparency. BDC is keeping Communication Canada informed about the status of the project.

Inappropriate transfer of sponsorship funds for a Crown corporation's capital asset

Old Port of Montreal—Sponsorship Screen, Visibility Plan, and Production—2000–01

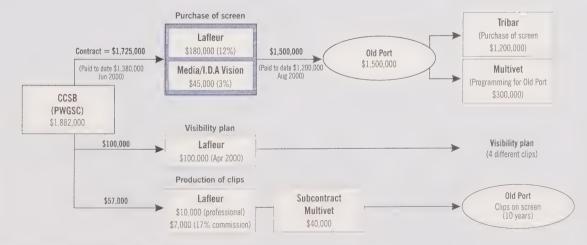
As part of its operations, Old Port of Montreal wanted to purchase a giant screen for its Science Centre but lacked sufficient funds. We were informed that initially Old Port had approached CCSB to obtain funding for the giant screen. However, CCSB did not provide it with any funds. Following a presentation by Old Port to the Minister of Public Works and Government Services Canada, CCSB offered verbally to provide \$1.5 million in sponsorship funds in return for federal visibility.

Rather than make a direct payment, CCSB contracted with Lafleur Communication Marketing and Media/I.D.A Vision (CCSB's agency of record) to transfer \$1.5 million to Old Port. The files contain nothing to support the selection of these agencies. CCSB paid the agencies \$225,000 for facilitating the transfer. The files did not show what, if any, value the Crown received for the \$225,000.

Although Old Port had not signed a contract with the agencies or with CCSB, it was informed by Lafleur that it

would receive \$1.5 million in April 2000. Old Port decided, with no involvement from Media/I.D.A Vision or Lafleur, to launch a process for issuing a \$1.5 million contract to acquire a giant screen and related programming services. In August 2000—after it had issued the purchase order to the supplier—Old Port received \$1.2 million as the first payment from Media IDA Vision. At the time of our audit, Old Port had not received the remaining \$300,000 it had been promised.

Money flow*



^{*}Figures do not include GST and PST (when applicable)

CCSB awarded additional contracts to Lafleur to create visibility for the government on the giant screen—for example, \$100,000 to develop a visibility plan and \$57,000 to produce video clips, \$40,000 of which work was subcontracted out. In total, CCSB paid Lafleur \$297,000 in various fees to transfer money, to produce a visibility plan, and to subcontract production work. We found nothing in the file to show specifically what CCSB expected to receive from Lafleur or what it did receive.

In large part, the substance of the transaction was a transfer of funds from CCSB to Old Port of Montreal to buy a capital asset for Old Port. CCSB should have asked the Treasury Board for the authority to transfer funds to Old Port. By not doing so, CCSB violated the intent of the Treasury Board's transfer payments policy, which was designed to ensure that a grant or contribution is not used as a substitute for financing a Crown corporation's operating or capital requirements. The Treasury Board Secretariat was not consulted or given a business case to support this purchase.

In our opinion, CCSB did not have the authority to transfer money from PWGSC's appropriation to support the operations of a Crown corporation. It spent nearly a quarter of a million dollars on commission fees to two agencies for transfering money between two government entities. CCSB paid fees to the same agency for the transfer, for production, and for subcontracting work, with no supporting business case and no written agreement with Old Port of Montreal.

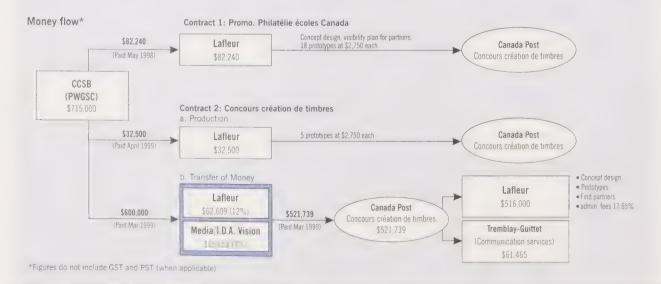
Sponsorship funds used to support commercial operations of a Crown corporation

Canada Post—Sponsorship Concours création de timbres—1998–99

In early 1998, Canada Post Corporation (CPC) decided to participate with the U.S. Postal Service in a stamp competition with over 30 other countries. We did not see any documentation to support Canada Post's decision. For example, there was no business case that documented the project's objectives and budget or the expected results that would be a benchmark against which the success of

the event could be measured. Canada Post hired Lafleur to manage this project, including finding partners. One of the partners solicited by Lafleur and the only financial contributor to the stamp competition was CCSB.

With no written agreement between them, CCSB paid Canada Post \$521,739 through Lafleur and Media/ I.D.A Vision, with whom CCSB had contracts. The two agencies received \$78,261 (15 percent) in commission fees simply for transferring the money. We do not understand why CCSB did not pay Canada Post directly and avoid paying the commissions. CCSB's contract with Lafleur provided no indication of the extent of visibility the government expected to receive for the \$521,739.



In return for receiving the funds, Canada Post provided visibility for the Government of Canada. We question the value of this sponsorship, since Canada Post was already required to display the Canada wordmark on all its corporate identity applications, under the Treasury Board's Policy on Federal Identity Program (FIP), CPC has informed us that while they have not quantified and documented the extent of additional visibility received by the government, in their opinion the presence of ministers at various functions and the prominent display of the Canada wordmark did provide additional visibility.

Canada Post's sponsorship policy requires that it document the objectives and the budget for sponsoring an event and the results it expects to achieve for its investment. Canada Post did not follow its sponsorship policy. It acknowledges that additional documentation would have been desirable but informed us that it disagrees with our conclusion. In its view, the stamp contest was not a sponsorship transaction but rather a marketing activity, a strictly commercial operation.

We note that the \$521,739 came from the government's Sponsorship Program. In our opinion, sponsorship funds were used to support Canada Post's commercial operations and violated the intent of the Treasury Board's transfer payment policy, which stipulates that a grant, contribution, or other transfer payment should not be a substitute for financing a Crown corporation's operating requirements.

We observed that of the \$521,739 it received from CCSB, Canada Post paid Lafleur \$516,000. However, Canada Post did not have a contract with Lafleur. Canada Post's own contracting policy requires competitive tendering for acquiring goods and services. Canada Post officials informed us that they had awarded the contract to Lafleur on a sole-source basis because of the quality of services Lafleur had provided in the past. However, we found no documentation on file containing any analysis or other rationale to support this decision.

One of Lafleur's invoices, paid by Canada Post, shows a commission to the agency of 17.65 percent, which CPC informs us was for finding partners and for ad placement fees. In normal circumstances, a contract would specify both the work to be performed and the fee structure. In the absence of a contract, we cannot determine on what basis charging the commission can be

justified. We are concerned about the various fees paid to Lafleur by CCSB and Canada Post to transfer money that was destined for Lafleur in any case.

We found that both Canada Post and CCSB purchased similar goods from Lafleur (concept design and production of prototypes, or maquettes). Canada Post told us it had not been aware that CCSB too had engaged Lafleur to produce the goods, and Canada Post did not receive any goods for the event from Lafleur on the government's behalf. We informed Canada Post and PWGSC and asked them to confirm with Lafleur that double payments were not made.

Overall, we found that neither Canada Post nor CCSB had a business case to support their involvement in this stamp competition. The communications agencies were selected by CPC without competition. There is no evidence of any post-event analysis of what CCSB received for the money it spent. We do not understand why CCSB paid for a Canada Post event that should have been considered part of Canada Post's normal operations, especially when Canada Post paid Lafleur most of the funds that it had received through Lafleur in the first place.

Questionable sponsorship funding for VIA Magazine

VIA Magazine—Sponsorship 1997 to 2000

In 1997, Lafleur Communication and Marketing made a proposal to VIA Rail to produce the VIA magazine at an estimated yearly cost of \$1.8 million. A total of 45,000 copies would be distributed including 30,000 on trains. CCSB and VIA entered into separate agreements with Lafleur, each stating that it would pay \$500,000 annually. Lafleur would seek funding for the remaining \$800,000 by selling space in the magazine to other advertisers. From 1997 to 2000, CCSB had five separate contracts with Lafleur, and

the funding was provided by the Sponsorship Program. There was no written agreement between CCSB and VIA Rail.

During 1997 to 2000, VIA Rail and CCSB paid Lafleur a total of \$3,564,500—about \$1,574,000 from VIA and \$1,990,500 from CCSB. There was no competitive process to solicit other potential suppliers of the services Lafleur was to provide, although two other companies indicated a willingness to produce the magazine.

Lafleur subcontracted all of the publishing to its subsidiary, Satellite Publishing Inc. In 2002, an internal review by PWGSC found that one individual, who was the President of Lafleur Communications Marketing, the President and Publisher of VIA Magazine, and the President and Editor of Satellite Publishing/Les Éditions Satellite Inc. had been responsible for getting the sponsorship funding, creating and managing the publishing vehicle (VIA Magazine), and printing the magazine. Although the Crown paid

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two thirds of the cost of the magazine, Lafleur retained the magazine's ownership.

There was no evidence that any subcontracting of work followed a competitive process, as required by CCSB's sponsorship contract with Lafleur. Occasionally, CCSB paid Lafleur invoices that showed commission fees of 12 percent to 15 percent charged for subcontracting work to a related company. CCSB did not question the relationship between Lafleur and the subcontractor to determine if the commissions charged were in compliance with the contract terms. We elaborate on this issue in paragraphs 3.76 and 3.77.

In 1997, VIA had a two year agreement or Letter of Intent with Lafleur to share 50 percent of annual profits and losses up to a maximum of \$100,000 and VIA would receive or pay \$50,000 per year, This agreement was not amended although the magazine continued to 2000. We saw no evidence that VIA received financial reports from Lafleur until the final year, 2000. During the three and a half years, Lafleur declared

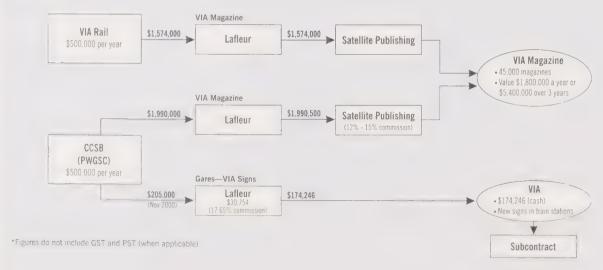
no losses and VIA received no profits except in the final year, when VIA received \$50,000 from Satellite Publishing. VIA informed us that the Vice-president of Marketing responsible for this file reviewed the annual budget, actual results and reconciliation to ensure that VIA's interests were well protected. While VIA Rail provided some documentation of costs for the year 2000, we are concerned that we had not seen adequate documentation to demonstrate that there was adequate monitoring in prior years.

In September 2000, just before the magazine was to be cancelled, VIA asked CCSB to transfer the remaining \$205,000 that CCSB would have contributed to the magazine, for an upgrade of signs at train stations across Canada. CCSB transferred the \$174,246 to VIA through Lafleur, which retained \$30,754 or 17.65 percent as a commission for simply facilitating the transfer. We saw no documented rationale for CCSB's use of sponsorship money to subsidize operations that would normally be VIA's operating cost. Here, again, CCSB should have asked

the Treasury Board for authority to transfer funds to VIA. By not doing so, CCSB violated the intent of the TB's Transfer Payments policy. In our opinion, this resulted in the circumvention of the appropriation process.

Overall, we are especially concerned about what appears to be unnecessary commissions paid for transferring money from one Crown entity to another. The annual payment of \$500,000 by VIA was approved by VIA's Board of Directors after reviewing the corporation's plan. In CCSB's files, we found no analysis or justification for this transaction. Lafleur and its subsidiary were not selected by a competitive process, and payments of commission to its subsidiary for printing were made without any challenge by CCSB. The relationship between the parent company and its subsidiary was not properly disclosed as required by the contract. Finally, CCSB's sponsorship funds were used to upgrade VIA's signs, in our opinion violating the transfer payments policy and circumventing the appropriation process.

Money flow*



Sponsorship Program money to subsidize RCMP operating expenditures

RCMP's 125th Anniversary Celebration—Sponsorship 1997 to 1999

In 1997, CCSB decided to contribute to the Royal Canadian Mounted Police's 125th anniversary celebration. Up to 1999, CCSB contributed more than \$3 million from the Sponsorship Program through eight separate contracts with two communications agencies and an agency of record. The RCMP received \$1,704,000 of that amount through Gosselin, Lafleur, and Media/I.D.A Vision. These agencies retained a total of \$244,380 in commission fees for transferring funds from CCSB to the RCMP. The balance, \$1,081,910, went to Lafleur and Gosselin to pay for production work related to the RCMP 125th anniversary event.

Of the \$1,704,000 in sponsorship funds received by the RCMP, we found only one agreement signed in 1998 between the RCMP and Gosselin Communications (representing the Government of Canada) for \$800,000. In return for this money, the RCMP was to provide visibility opportunities that would profile the Government of Canada, including the placement of the Canada wordmark in the RCMP's 125th anniversary activities. We

question the added value to the government of this sponsorship, given that the RCMP was already required to display the Canada wordmark under the Treasury Board's Policy on the Federal Identity Program (FIP). We found no documented evidence of any additional visibility received in return for the sponsorship money.

Before our audit, the RCMP had completed an internal audit of this sponsorship event. Its audit had concluded with reasonable assurance that the RCMP had received CCSB sponsorship funds through Lafleur and Gosselin. However, given that not all of the information needed to complete the audit was available, the auditors could not provide reasonable assurance that expenses had complied with applicable sponsorship agreements, policies, procedures, and regulations (including the Financial Administration Act, the Treasury Board's contracting policy, and the Policy on Delegation of Authorities). Nor could the auditors provide reasonable assurance that sponsorship funds and related expenses had been recorded properly and accurately for financial reporting purposes.

Subsequently, as the internal audit had recommended, the RCMP started an administrative review of the sponsorship of its 125th anniversary celebrations.

Our audit revealed a number of anomalies:

- A separate non-government bank account was used for all deposits and payments to the RCMP's Quebec Division; this was a contravention of the Financial Administration Act. The internal audit report mentioned that the Receiver General account was not used and approval was not obtained for a departmental bank account—a requirement under Treasury Board policy. In addition, all transactions for Quebec Division were recorded in a manual accounting system rather than in the RCMP's corporate accounting system. We were unable to verify the transactions from the Quebec bank account because some of the supporting documents had been destroyed.
- CCSB paid Lafleur almost \$200,000 for production work that was subcontracted to a company related to Lafleur (Publicité Dézert). We did not

Reconciliation of total dollars for the RCMP 125th Anniversary			
RCMP received in cash (\$530,000 + \$1,174,000)		\$1,704,000	
Commissions paid to agencies to transfer funds			
Gosselin	\$140,880		
Lafleur	64,500		
Media/I.D.A. Vision	39,000	244,380	
Production of goods and services to RCMP			
Lafleur	\$967,750		
Gosselin	114,160	1,081,910	
Total paid by CCSB		\$3,030,290	

see evidence of a competitive process for subcontracting, which the contract required. We found cases where CCSB paid Lafleur for invoices showing 12 percent to 15 percent in commission fees charged for subcontracting work to Publicité Dézert. CCSB did not question the relationship between the two companies to determine if the commissions were in compliance with the contract terms. We elaborate on this issue in paragraphs 3.76 and 3.77

- The RCMP spent \$65,000 of the CCSB sponsorship funds that it received through Media/I.D.A Vision and Lafleur to purchase goods from Lafleur. Lafleur subcontracted most of this work to Publicité Dézert and again charged a commission. No written contract was issued between the RCMP and Lafleur. According to the RCMP's internal audit report, these expenses were not processed according to the contracting policies of the RCMP and the Treasury Board.
- We found that both the RCMP and CCSB purchased similar goods from Lafleur. We informed the RCMP and PWGSC of this matter and asked them

to confirm with their supplier that double payments were not made.

- The RCMP used some of the sponsorship funds it received for its own operations. We find this an inappropriate use of sponsorship money. For example, it spent more than \$150,000 to hire two coordinators for the 125th anniversary celebrations; six horses and two trailers were purchased for \$107,268; and an \$82,436 surplus of sponsorship money in the Quebec Division was used as a credit against departmental expenditures.
- There was little documentation in the CCSB's files to support the Sponsorship Program's funding of the RCMP 125th anniversary event. There were no business plans, no visibility plans, and no post mortem report accounting for the value of additional visibility the government received for the majority of the \$3 million spent.

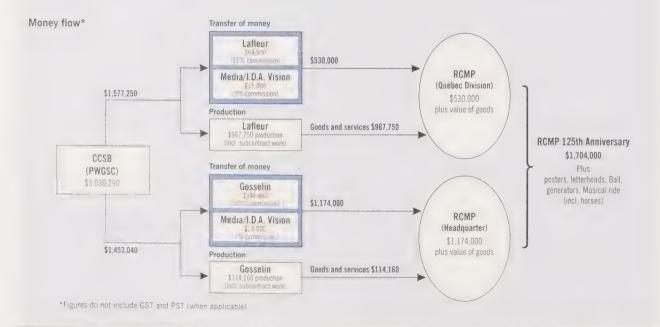
In response to our findings, the RCMP has informed us that

- it agrees with the facts presented in this case:
- it agrees that the *Financial*Administration Act was contravened

but says the RCMP's own administrative review concluded that this was due to a lack of understanding by local managers and not malicious intent;

- although it acknowledges that the agencies received commissions on funds transferred to the RCMP, the RCMP did not knowingly pay any commissions directly to the communication agencies; and
- it takes our findings seriously and has taken and continues to take corrective action.

In our view, most of the expenses were for the RCMP's 125th anniversary celebrations, costs that the RCMP should have been expected to cover from its own appropriations or by seeking supplementary appropriations if necessary. In this case, it appears that appropriations provided by Parliament to PWGSC were used to subsidize the RCMP's operating expenditures. We do not believe that Parliament appropriated funds to PWGSC with the intent that they be used to purchase horses for the RCMP. Given that they were, however, we can see no reason why CCSB did not transfer the funds directly to the RCMP and save \$244,380 in commissions.



The transactions with Crown entities are cause for concern

- **3.42** Our work indicates that the Sponsorship Program was used mainly for community, cultural, and sports events. However, as the case studies show, it was also used for funding certain other events, television series, commercial activities, and capital acquisitions by Crown entities, including Crown corporations.
- 3.43 Communications agencies were paid significant commissions by CCSB to simply deliver cheques to the corporations. Many of the transactions we examined had violated one or more of the Government Contracts Regulations, the *Financial Administration Act*, financial and contracting policies of Crown corporations, and the intent of the Treasury Board's Policy on Transfer Payments.
- 3.44 What is particularly disturbing about these sponsorship payments is that each involved a number of transactions with a number of companies, sometimes using false invoices and contracts or no written contracts at all. These arrangements appear designed to provide commissions to communications agencies, while hiding the source of funds and the true nature of the transactions. The parliamentary appropriation process was not respected. Senior public servants in CCSB and some officials of the Crown corporations were knowing and willing participants in these arrangements. The former Minister of Public Works and Government Services told us he was aware that CCSB's Executive Director had entered into transactions with the Crown corporations; the Executive Director had informed him that moving money between entities in this way was appropriate.

Mismanagement of sponsorships

3.45 Our audit work in Crown corporations covered only a part of the Sponsorship Program. The majority of transactions under the program involved the payment of funds by the Government of Canada to support organizations that were staging sports and cultural events. This section discusses the management of the program by CCSB up to 31 August 2001, when Communication Canada assumed the responsibility for the program.

Widespread failure to comply with contracting policies and regulations

- 3.46 Starting in April 2000, PWGSC conducted one audit and several reviews of sponsorship files, in each case uncovering serious problems. Our findings were consistent with those of PWGSC.
- 3.47 Those who managed the Sponsorship Program were responsible for
 - complying with the Financial Administration Act,
 - exercising due diligence in selecting events for sponsorship and determining the level of financial support to each,
 - ensuring that the process of selecting and awarding contracts to communications agencies complied with the government's policies and regulations on contracting,

- · enforcing the terms and conditions of the contracts, and
- ensuring that the government received the best possible value for the public funds it spent.
- 3.48 We observed that from 1997 to 31 August 2001, there was a widespread failure to comply with the government's contracting policies and regulations, a pervasive lack of documentation in the files, and little evidence in many cases that the government had received value for its sponsorship—in some cases, no evidence.

Selection of communications agencies broke the rules

- 3.49 Section 5 of the Government Contracts Regulations requires the contracting authority to solicit bids before entering into any contract; competitive bidding should therefore be the norm.
- 3.50 The Sponsorship Program used communications agencies from three pre-established lists of qualified suppliers identified in three separate selection processes (for details see section Selection of agencies in Chapter 4).
- 3.51 In the first process, five firms were selected in early 1995 to provide advertising services to the Advertising and Public Opinion Research Sector (APORS) of PWGSC. However, the selection process did not comply with the Government Contracts Regulations. We saw no evidence that the specific requirements of the work were ever advertised or documented. The selected firms had been identified earlier in a selection process for other work in another department. Other potential suppliers were never given a chance to compete for this work.
- 3.52 In the second selection process, carried out in 1995, a consortium was selected to provide a complete range of advertising services. In the third process, in 1997, 10 companies were selected to develop and administer national or regional marketing campaigns to supplement advertising initiatives. Many of these companies were later awarded contracts to manage sponsorship events.
- 3.53 In each of the latter two selection processes, the government posted a letter of interest on MERX, its electronic bidding system, to inform suppliers about its needs and allow them to apply as potential suppliers. In each case, the letter of interest did not specify in what period the services were needed, which of the stated requirements were mandatory and which would be rated, and how the suppliers would be selected or the pass mark (score) they had to obtain. All of this information was required under CCSB's own procedures.
- 3.54 In our opinion, none of the companies on the three lists of qualified suppliers was selected through the competitive process that the government's contracting policies and regulations require.

Selection of the agency of record contravened contracting rules

3.55 In March 1998, the government contracted with a firm to be its agency of record and provide financial management services for sponsorships. Again, the letter of interest was posted for less than the 30 days required by the

Contracting Policy, Appendix Q. It did not say when the services would be required, what the mandatory and the rated requirements were, and how suppliers would be selected or the score they would need to be considered in the next stage of the selection process.

3.56 The company chosen was given a contract for the next five years to act as sole purchaser of all media placements that the government needed to support its advertising activities. The advertising aspects of this contract are addressed in Chapter 4 of this Report.

Contracts awarded for specific events without following contracting policies

- **3.57** Appendix Q of the government's contracting policy states that if the contracting authority creates a list of qualified suppliers of a type of service, then each time it wants to award a contract for that type of service it must invite all suppliers on the list to submit a proposal. The contracting authority must also post an annual notice that the list of qualified suppliers exists, and it must give other suppliers an opportunity to qualify for inclusion on the list. We saw no evidence that CCSB or PWGSC ever posted an annual notice of the list of qualified suppliers or gave other potential suppliers an opportunity to qualify.
- **3.58** Furthermore, in the contracts we audited, we found that CCSB had never invited proposals from the suppliers who did get on the list. Nor did the files show on what basis each contract was awarded and why one agency and not another was chosen for a given project.

Lack of due diligence in selecting and approving events to sponsor

- 3.59 We expected that in recommending an event for sponsorship, program staff would indicate how the event would contribute to achieving the program's objectives. We expected to find analyses showing that program managers had assessed proposed events for their potential to provide federal visibility and presence and that they had recommended sponsorship funding at a corresponding level.
- 3.60 Most of the 53 files in our audit sample contained no assessment of the project's merits or even any criteria for assessing merit. No file contained the rationale supporting the decision to sponsor the event. Furthermore, in 64 percent of the files we reviewed, there was no information about the event organizers, no description of the project, and no discussion of the visibility the Government of Canada would achieve by sponsoring the event.
- 3.61 We found a list of events that CCSB had declined to sponsor, but its officials informed us that no files had been maintained on declined projects so we could not determine why the requests for sponsorship funds had been declined. We noted seven projects that had been declined initially and were later approved—but the files contained no reasons for the changed decisions. In one case a soccer team, Impact de Montréal, received \$150,000 in sponsorship funds for its indoor season in 1998–99. The following year, an almost identical proposal from the Edmonton Drillers Soccer Club was declined on the grounds that no funds were available. After the Minister of

Public Works and Government Services was contacted by a member of Parliament and by the Edmonton Drillers, a sponsorship of \$30,000 was approved. The Montreal team received \$30,000 in sponsorship funds that year as well.

- **3.62** Some aspects of this case are troubling. First, given that a note in the file said the Edmonton proposal was initially declined because no funds were available, it is not clear why funds were available for other projects that were approved at that time.
- 3.63 Second, while it is clear that the Minister was approached, there was little evidence that new facts were provided or additional criteria used to support a reversal of the initial decision.

No analysis of sponsorship amount for each event

- 3.64 We expected files to be properly documented and, as recommended in the government's contracting policy, to provide a complete audit trail containing details on matters such as options considered, decisions, approvals, and amendments to contracts. In addition, the Supply Manual of PWGSC states that a current file on a contract serves as a historical record and an accurate audit trail in the event of a financial review, subsequent legal action, or an official complaint.
- 3.65 In the sample of sponsorship files that we audited, not one had any documented rationale to support the level of funding approved; nor, in fact, was there a record of any discussion at all about the level of funding (see Tour Cyclist Trans Canada).

Tour Cyclist Trans Canada

The earliest documentation in the file on the Tour Cyclist Trans Canada was a letter from CCSB's Executive Director to the event organizer, saying that the Government of Canada supported and was proud to be associated with the event. The letter went on to say, "The minimum amount of the sponsorship which will be allocated to this project will be in the amount of \$1.4 million." The file contained no letter of request, no application for sponsorship funds, and no documentation or other analysis supporting the decision to enter into a contract with a communications agency to spend \$1.4 million.

CCSB subsequently amended the contract, adding \$400,000 to the \$1.4 million sponsorship, plus agency commissions and taxes. We found no documented rationale for the additional amount. The communications agency had already certified that the event had taken place and that all aspects of the agreement had been respected. That being the case, it is hard to find a basis for the subsequent adding of \$400,000 and associated commissions.

Little evidence of the value received by the Crown for the money spent

3.66 Having entered into a contract with a communications agency to manage the sponsorship of a specific event, CCSB and PWGSC were expected to show due diligence in managing the spending on the contracted services and ensure accountability for the public funds spent. Good contract management would have ensured that the contract terms and conditions

were met and payments made in accordance with them, and that the invoices and post mortem reports submitted to PWGSC or CCSB were verified as reliable. As well, we expected management to have reasonable assurance that funding was used for the intended purposes, that post mortem reports were reviewed against the objectives and expected results outlined in the visibility plan, and that site visits were made.

- 3.67 CCSB's contract with each communications agency for one or more sponsorship projects specified that the communications agency was to submit details of a visibility plan, execute the sponsorship agreement with the event organizer, monitor the terms of that agreement, obtain proof that the event organizer had performed according to the agreement's terms, and reconcile all relevant documentation.
- 3.68 Absence of visibility plans. Almost half the files in our sample contained no visibility plan describing in any detail the visibility the government could expect to gain. In one case, for example, a member of Parliament received a request for \$5,000 from a college in Quebec for financial support for its foundation. The MP forwarded the request to the Minister of Public Works and Government Services. A special assistant in the Minister's office sent the request to CCSB, which entered into a contract with a communications agency for \$5,600 that included commission fees of 12 percent. CCSB approved a visibility plan by the agency that consisted solely of putting the name of the member of Parliament on a mural in the college. In this case, the Government of Canada did not receive any visibility for the \$5,600 it paid, but the member of Parliament did.
- **3.69** Little documentation of what was delivered. There was little evidence that any communications agency had analyzed the results of sponsored events in our sample. Communications agencies were required to submit post mortem reports summarizing the visibility benefits, with relevant documentation, photos, and examples of visibility such as brochures and press clippings. In 49 percent of our files, there was no post mortem report and therefore no evidence that the government had obtained the visibility it had paid for.
- 3.70 In December 1996, for example, PWGSC's Advertising and Public Opinion Research Sector (APORS)—which subsequently became CCSB—signed a \$330,000 advertising contract with Groupaction to develop a communications strategy related to the new firearms legislation. APORS received invoices for the full amount of the contract and approved the payments. However, there was no evidence that APORS received anything for the money it paid to Groupaction under this contract. The contract said this was a Justice Canada project, but Justice officials have stated that they had not requested the contract and received none of the services outlined in it.
- 3.71 In another case, a \$465,000 contract with Groupaction in April 1997 covered the sponsorship of Série Hermez Racing and Classique du Parc/Parc Équestre de Blainville, as well as advertising-related services described as

Promotion de la culture canadienne française and Surveillance et documentation de sites et de groupes d'intérêts/Armes à feu.

- 3.72 Invoices were received and payments approved by APORS for the full \$465,000. However, the file contained no evidence that APORS received the deliverables specified in the contract. There was also no evidence on file to indicate how public servants satisfied themselves that goods and services had been received before approving payments.
- 3.73 Even the files that did contain post mortem reports had no evidence that CCSB program staff had compared the reported results with the objectives stated in the visibility plan. A report by a communications agency on an event in one city contained photographs of a similar event in another city. CCSB program staff did not identify the inaccuracy or ask the agency why it had used photographs of the wrong event.

Work subcontracted without competition

- 3.74 The contracts with communications agencies stipulated that before subcontracting any work estimated at more than \$25,000, the agencies were to obtain bids from no fewer than three other suppliers, firms, or individuals and submit the bids to CCSB.
- 3.75 In the 26 percent of sampled files involving subcontracts for amounts greater than \$25,000, we saw no evidence that the communications agency had solicited bids from suppliers. Nor did we see evidence of any effort by CCSB to determine that this condition had been met.
- 3.76 The contracts also state that a communications agency may not receive a commission on work that it subcontracts to a "member of the Strategic Alliance" but they did not define strategic alliance. However, an official of PWGSC told us that the expression "strategic alliance" referred to the companies that had been listed as affiliates on the agencies' responses to the qualification questionnaire during the selection process. Over the years, communications agencies have merged, changed their names, or been bought. CCSB did not maintain up-to-date records of members of the "strategic alliance."
- 3.77 We observed in some cases that the communications agency had subcontracted work to a company with whom it clearly had a close relationship and had invoiced CCSB for a commission. Some companies had the same address and even the same fax number. We saw no evidence that CCSB ever questioned invoices for subcontracted work before paying them. We saw no evidence that it ever attempted to require compliance with this contract condition.
- 3.78 The contracts also required that CCSB approve production costs in advance. The majority of the 53 files in our sample show that CCSB was billed for production costs and there was no evidence that it had approved the production costs in advance or subsequently verified them.

3.79 Furthermore, we saw no evidence that on receiving the invoices, CCSB officials had questioned the costs before approving payments or reminded the communications agency that costs were to have been approved in advance. We found a general lack of documentation of production costs. Many of the invoices for production costs lacked support such as a description of the work that had been done or the number of hours it had taken.

Contracts amended without documented support

- 3.80 We found in 21 percent of the sampled files that contracts had been amended without any explanation. As already noted, one amendment added \$400,000 to the contract four months after the event. The rationale for this amendment was stated in one line—it was for "added visibility." There was no evidence that CCSB had requested any added visibility, and no evidence that any had been achieved. Further, we found no analysis to support the contract's initial value of \$1.4 million.
- **3.81** We expected that the public servants responsible for managing these files would have taken reasonable steps to protect the interests of the Crown. Those steps would have included showing due diligence in the spending of public funds, ensuring that government contracting policies and regulations were respected, and enforcing the terms and conditions of the contracts.
- **3.82** In the files that we audited, we saw very little evidence that the public servants responsible had made any such efforts.

Lack of compliance with relevant financial authorities

3.83 Public servants are expected to take appropriate steps to ensure that they discharge their responsibilities with prudence and probity. The *Financial Administration Act* (FAA) sets out precise conditions that govern payments. Specifically,

No contract or other arrangement providing for a payment shall be entered into with respect to any program for which there is an appropriation by Parliament or an item included in estimates then before the House of Commons to which the payment will be charged unless there is a sufficient unencumbered balance available out of the appropriation or item to discharge any debt that, under the contract or other arrangement, will be incurred during the fiscal year in which the contract or other arrangement is entered into (section 32).

No charge shall be made against an appropriation except on the requisition of the appropriate Minister of the department for which the appropriation was made or of a person authorized in writing by that Minister. Every requisition for a payment out of the Consolidated Revenue Fund shall be in such form, accompanied by such documents and certified in such manner as the Treasury Board may prescribe by regulation. No requisition shall be made for a payment that (a) would not be a lawful charge against the appropriation; (b) would result in an

expenditure in excess of the appropriation; or (c) would reduce the balance available in the appropriation so that it would not be sufficient to meet the commitments charged against it (section 33).

No payment shall be made in respect of any part of the public service of Canada, unless in addition to any other voucher or certificate that is required, the deputy of the appropriate Minister, or another person authorized by that Minister, certifies that: (i) the work has been performed, the goods supplied or the service rendered, as the case may be, and that the price charged is according to the contract or, if not specified in the contract, is reasonable; (ii) and where, pursuant to the contract, a payment is to be made before the completion of the work, delivery of the goods or rendering of the service, as the case may be, that the payment is according to the contract (section 34).

- 3.84 We observed that many of the files contained no signature indicating compliance with section 32 of the FAA.
- 3.85 We also noted in the sample of payments we audited that requisitions had been authorized by the appropriate financial officers under section 33 of the FAA.
- 3.86 All files contained the signatures required under section 34. However, none of the files had evidence that the signing officer had fulfilled the obligations and met the requirements of the *Financial Administration Act*. There was insufficient evidence that the work had been performed according to the requirements of the contract. For example, some payments were made on the basis of a lump sum invoice with no supporting documentation, no record of the work performed, no record of who performed the work, and no post mortem report showing that the sponsored event had taken place and that the government had received the visibility for which it had paid.
- 3.87 In our view, the public servants involved in administering the Sponsorship Program did not discharge their responsibilities with due care and diligence. There was little evidence that anyone had verified the reliability of the data on the invoices submitted by the communications agencies. Furthermore, the files often lacked evidence showing what work the communications agencies had done and therefore had little support for invoices paid.

How was this allowed to happen?

- **3.88** We are disturbed not only by the widespread circumvention of the competitive contracting process and the consistent breaking of rules essential to ensuring the proper handling of public funds but also by the fact that this was permitted to occur at all.
- **3.89** Two factors allowed this regime of mismanagement to occur and persist over a period of several years: departmental oversight and essential controls at PWGSC were bypassed, and the role of Parliament was not respected.

Oversight and essential controls were bypassed

- **3.90** PWGSC is a large department, with annual revenues of over \$100 million, expenditures of over \$2 billion, and 14,000 employees. It is involved in many lines of business, including providing other government entities with expertise in procurement and related common services. It manages the operations of the federal treasury, including issuing cheques from the Receiver General; and it prepares the Public Accounts of Canada and the government's monthly financial statements.
- **3.91** To achieve its objectives, PWGSC has established a fairly sophisticated system of internal controls and accountability reporting. While our previous audits have found some weaknesses in contracting and other management processes, we have also found that the Department's systems of internal controls are generally reliable.
- 3.92 Throughout our current examination we were disturbed not only by actions of Sponsorship Program managers but also by the unexplained and continual failure of oversight mechanisms and essential controls to detect, deter, and report flagrant violations of rules, regulations, and policies. The funding for sponsorships came from PWGSC's appropriations. The small number of officials in CCSB were employees of PWGSC. The authorities they exercised had been delegated to them by the Minister, through the Deputy Minister.
- **3.93** Senior officials at PWGSC have stressed to us that our observations on CCSB are not indicative of how the vast majority of PWGSC employees discharge their responsibilities. From our previous audits of PWGSC, we would agree. We have not observed such widespread violation of the rules elsewhere in PWGSC.
- 3.94 The Department has not provided us with an adequate explanation for the almost complete collapse of its essential controls and oversight mechanisms in the management of the Sponsorship Program for the four years preceding 31 August 2001. As already noted, the program consumed \$250 million of taxpayers money, over \$100 million of it paid to communications agencies in fees and commissions.
- 3.95 Once audits were begun, the problems were not difficult to find. In 2000, PWGSC's internal audit reported numerous shortcomings in the management of the Sponsorship Program. In 2001 certain improvements were carried out, including a new solicitation process and improvements in the agreement with the agency of record. A follow-up audit by PWGSC in 2002 noted that the documentation on file had improved. However, the follow-up audit did not address issues of value for money.
- 3.96 In our Report in May 2002 we raised significant concerns about three contracts relating to the Sponsorship Program. Following that Report, PWGSC undertook a review of all 721 files and examined 126 of them in detail. The work was done initially by a Quick Response Team consisting of PWGSC experts from appropriate areas of the Department.

- 3.97 That review found in most of the files significant problems with documentation, use of affiliated communications companies, overbilling, subcontracting, and potential breaches of the *Financial Administration Act*, Treasury Board policies, and departmental policies. The findings were such that the Department referred a number of files to the RCMP for review and initiated recovery actions. At the completion of our audit, the RCMP's review was still under way.
- 3.98 In 2003, the Department retained a private sector firm of forensic auditors to do a more in-depth review of sponsorship files on 136 events. The auditors reported that in a significant number of cases, "We note what appear to be clear issues of non-compliance with either the FAA, PWGSC-delegated authorities, or Treasury Board Contracting Policies/Government Contracts Regulations. In relation to a number of events, we have noted multiple issues of non-compliance."
- 3.99 The audit function worked to identify problems after the fact. What failed were the controls and oversight that should have prevented these problems from occurring in the first place. Although PWGSC's Internal Audit Branch published its report in 2000, some important subsequent management actions—for example, initiating recovery and referring matters to the RCMP—were not undertaken before 2002.

The role of Parliament was not respected

- 3.100 Not only was Parliament not informed about the real objectives of the Sponsorship Program, it was misinformed about how the program was being managed. The parliamentary process was bypassed to transfer funds to Crown corporations. Funds appropriated by Parliament to PWGSC were used to fund the operations of Crown corporations and of the RCMP.
- 3.101 PWGSC's 1999–2000 Report on Plans and Priorities, signed by the Minister and the Deputy Minister, contained the following statement about CCSB:

The CCSB business line will focus on the following strategies and key activities over the planning period . . . provide core communications procurement and project coordination services to federal departments that are useful, timely and value added while ensuring prudence, probity and transparency throughout the process.

3.102 More than half of CCSB's spending was on sponsorships. Prudence and probity in the delivery of the program were certainly not ensured.

Recent improvements in management

Treasury Board Secretariat initiatives

3.103 In May 2002, the Secretary of the Treasury Board wrote to deputy ministers reinforcing the importance of respecting the provisions of the *Financial Administration Act* and the Treasury Board's contracting policies. He asked departments to undertake three specific activities in the areas of sponsorship, advertising, and public opinion research: first, to assess whether appropriate controls and procedures were in place; second, to review current

contracts and ensure their compliance with the Financial Administration Act as well as government contracting policies and regulations; and third, to ensure that people exercising delegated authorities were properly trained and informed of their responsibilities. He also asked deputy ministers to transmit his request through their ministers to Crown corporations, asking them to conduct a similar exercise.

3.104 We reviewed the responses received by the Treasury Board Secretariat and they indicate that departments have started corrective action in the areas they acknowledged were weak.

3.105 The Treasury Board Secretariat in conjunction with PWGSC and Communication Canada also undertook a study to review the structure and design of the Sponsorship Program. That study resulted in the announcement of a new sponsorship program in December 2002 (as noted in paragraph 3.116).

Changes have been made under Communication Canada

3.106 In September 2001, the CCSB was amalgamated with the Canada Information Office to form Communication Canada, which assumed responsibility for the Sponsorship Program. It made a number of changes aimed at strengthening the implementation of the program, most notably creating a new management structure and program framework and new program guidelines (effective February 2002 and revised in May 2002). Meanwhile, responsibility for contracting was transferred to the Supply Operations Service Branch of PWGSC, the main procurement arm of the Department. More significant changes were announced later and began to be implemented on 1 April 2003.

3.107 In May 2002, a moratorium on sponsorships was imposed in order to take steps toward improving the program. The intent was to ensure that the program could operate in the public interest and on a sound basis in the future. The moratorium was brief and, pending the results of the review, an interim program was launched using in-house resources rather than contracting with communications agencies—that is, Communication Canada entered into sponsorship contracts directly with event organizers.

3.108 We audited a sample of 25 project files from September 2001 to March 2003. We found that in general these files were managed better. Although in some cases its documenting of decisions was still deficient, in most files we found enough documentation to understand the rationale behind decisions to sponsor specific events. Unlike the earlier sample we audited, all of these files contained the appropriate visibility plans and post mortem reports.

3.109 Some circumvention of contracting rules continued.

Communication Canada improved its documenting of the use of criteria in selecting events to sponsor. However, in the period prior to July 2002 it still had not invited the qualified suppliers on the pre-established list to submit proposals each time a contract was to be awarded. In addition, we found no evidence that Communication Canada posted an annual notice of the list of qualified suppliers or gave others an opportunity to qualify for the list.

- 3.110 However, effective 3 July 2002, the date on which the moratorium was lifted, communications agencies were no longer used as intermediaries. This was a significant change in the way the Sponsorship Program was managed.
- 3.111 Improvements in selecting and approving individual projects. In the 25 files we reviewed at Communication Canada, we saw an improvement in the rationale for sponsoring events. All files contained proposals from event organizers, so we were able in every case to determine the nature of the event.
- 3.112 Better analysis of the level of sponsorship for each event. Communication Canada developed an analysis sheet that considered the objectives and priorities of the Sponsorship Program, the clientele, the regional distribution of sponsorships, and the participation of other sponsors. Although there were exceptions, we did see some analysis in most of the files. For example, in some cases Communication Canada had compared an event to be sponsored with a similar event sponsored previously, as a basis for deciding what level of funding to provide. In addition, Communication Canada maintained files on projects it had declined to sponsor and included analysis to support those decisions.
- 3.113 Better enforcement of the terms and conditions of contracts. The visibility plan was called a sponsorship plan in the interim program. Under Communication Canada, the sponsorship plans were based on templates prepared by Communication Canada that varied according to the amount of sponsorship money provided. This allowed for relatively consistent degrees of visibility in all events receiving similar amounts. All the Communication Canada files we reviewed included sponsorship plans, and we were able to follow the approval process.
- **3.114** Improved compliance with relevant authorities. Compliance with the *Financial Administration Act* improved considerably under Communication Canada. The required certifications under sections 32, 33, and 34 of the FAA were signed off properly.
- 3.115 In all of the Communication Canada files we reviewed, staff had waited for a post mortem report and compared the reported results with the objectives set out in the visibility/sponsorship plans before they made the final payment.

A new sponsorship program has been launched

- 3.116 A new sponsorship program was announced in December 2002 by the President of the Treasury Board, the Minister of Public Works and Government Services, and Communication Canada, effective 1 April 2003. The program is now delivered through a contribution program. Its key features include the following:
 - There will be no contracting with third parties.
 - Payments are to be made under contribution agreements instead of contracts.
 - Written guidelines will be issued for use by program staff.

- Transparency is to be achieved through nationwide publicizing of the program, its objectives, the selection criteria, the events that have been approved, and the funds each event will receive.
- Audits are to be conducted, event sites visited, and compliance with contribution agreement terms and conditions demonstrated before final payments will be made.

The announcement also stated that the program will be in place for 2003–04, during which time the government will assess its value and viability for the long term and publicly report the results. While we are encouraged by the announcement, we have not audited this new program.

3.117 It is important to stress that even while the previous Sponsorship Program was being mismanaged, there were sound rules in place. The Financial Administration Act spelled out the requirements and obligations of public servants. The government's own contracting policies articulated quite clearly the steps that public servants were to follow. Yet public servants consistently failed to follow the rules.

3.118 While the new program may provide an opportunity to correct the weaknesses we identified, Parliament and Canadians need assurance that this time, all of the rules will be followed.

Conclusion

3.119 In its 2000 Report on Plans and Priorities to Parliament, PWGSC stated that it was managing the Sponsorship Program in a manner that ensured prudence and probity. This was clearly not the case.

3.120 Until 1 September 2001, the government ran the Sponsorship Program in a way that showed little regard for Parliament, the *Financial Administration* Act, contracting rules, transparency, or value for money. There was little evidence of prudence and probity. In May 2002, the Treasury Board wrote to the departments reinforcing the importance of respecting the provisions of the *Financial Administration* Act and contracting policies and regulations. In addition, the government announced a new sponsorship program, effective April 2003.

3.121 Since Communication Canada was formed in September 2001, there have been significant improvements in the Sponsorship Program. The current Executive Director has informed his staff that he expects these improvements to be sustained. He has stated that a thorough internal audit will be conducted by 2005. We hope that this will indeed be a thorough and comprehensive audit, one on which we will be able to rely. We hope that the results of the internal audit will be reported to Parliament in a timely manner.

3.122 It remains of great concern, however, that the Sponsorship Program was ever allowed to operate in the way it did. Considerable amounts of public funds were spent, with little evidence that obtaining value for money was a concern. The pattern we saw of non-compliance with the rules was not the

result of isolated errors. It was consistent and pervasive. This was how the government ran the program. Canadians have a right to expect greater diligence in the use of public funds.

3.123 Public servants need to ensure that funds spent on communications, whether for sponsorship or for advertising, require no less attention to the *Financial Administration Act* and no less attention to contracting rules than all other spending of public funds, and as much concern about getting value for the taxpayer's money.

About the Audit

Objectives

Our audit objectives were to determine

- whether the government exercised adequate control over its Sponsorship Program,
- · whether the results of these activities have been measured and reported them to Parliament, and
- to what extent the government has taken corrective action as a result of previous audits or reviews.

Scope and approach

We examined a risk-based sample of 38 project files and a random sample of 15 project files from 1997 to 31 August 2001, managed by the Communication Coordination Services Branch (CCSB) of Public Works and Government Services Canada (PWGSC); and a random sample of 25 files from 1 September 2001 to 31 March 2003, managed by Communication Canada. We reviewed the work performed by PWGSC's Internal Audit and its Quick Response Team. They reviewed 580 files and 126 files respectively. We interviewed officials of PWGSC, the Treasury Board Secretariat, and Communication Canada. We also interviewed some former officials and former ministers responsible for CCSB.

Criteria

We expected that the government would do the following:

- · comply with authorities;
- ensure that sponsorship activities were designed to achieve expected results;
- exercise due diligence in approving individual projects;
- ensure due diligence in spending and account for public funds spent;
- have reasonable assurance that funding was used for the intended purposes;
- appropriately manage the risks inherent in third-party delivery, where applicable;
- have a clearly communicated accountability framework in place, including performance management and reporting; and
- conduct periodical review and appropriate follow-up.

Crown corporations

Objectives. The objectives and criteria for our audit of sponsorship funding to Crown corporations varied slightly from those used in our examination of the departments. We set out to determine whether selected Crown corporations had exercised adequate control over sponsorship activities involving funds received from the government or disbursed to the government to promote government objectives. We also wanted to determine the extent to which the selected Crown corporations had taken corrective actions as a result of previous audits or reviews.

Scope and approach. We selected 10 Crown corporations: two on a risk basis and eight from the Sponsorship Program database. We examined all 46 transactions from the Sponsorship Program database for those eight Crown corporations. We also looked at transactions from 1997 to 2003 that we selected from the Crown corporations' databases. We interviewed officials of the Crown corporations, PWGSC, the Treasury Board Secretariat, and Communication Canada.

Criteria. We expected that the Crown corporations would do the following:

- comply with relevant authorities;
- ensure that sponsorship activities were designed to achieve the expected results;
- · exercise due diligence in approving individual projects;
- ensure due diligence in spending and account for public funds spent;
- have reasonable assurance that funds were used for the intended purposes;
- · appropriately manage the risks inherent in third-party delivery, where applicable; and
- · periodically review sponsorship activities and follow up as appropriate.

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Chapter

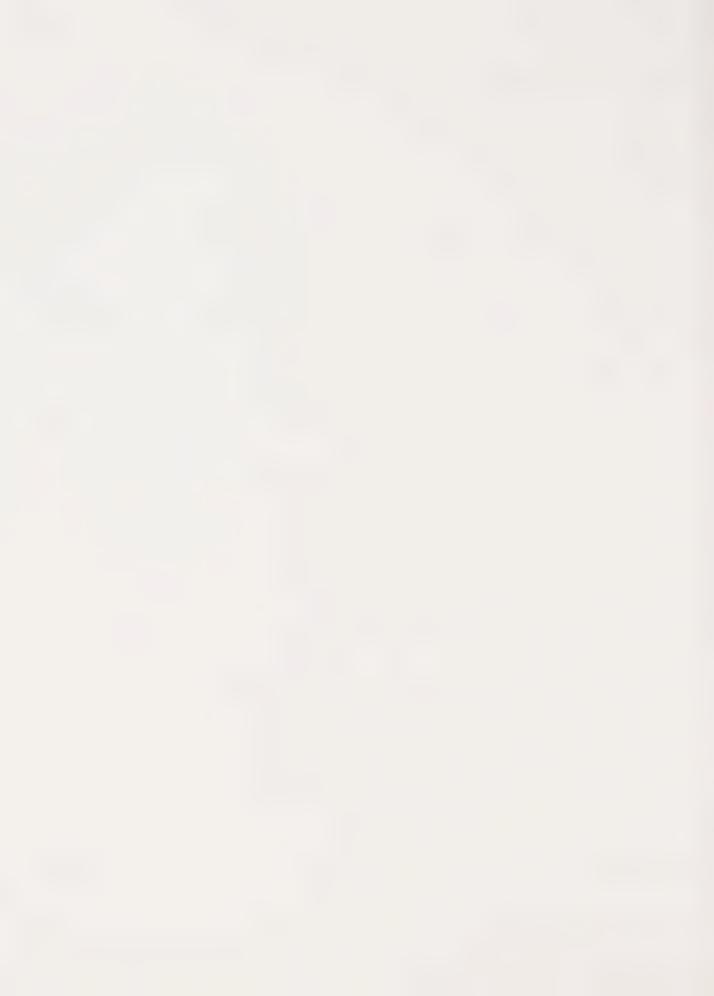
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Advertising Activities

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.	

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Advertising Activities

Main Points

- 4.1 The Communications Coordination Services Branch (CCSB) of Public Works and Government Services Canada failed to meet its obligation to allow suppliers equitable access to government business and obtain best value in selecting advertising agencies. Most agencies were selected in a manner that did not meet the requirements of the government's contracting policy. In some cases, we could find no evidence that a selection process was conducted at all. CCSB officials disregarded the same rules and selected the same agencies as those in Chapter 3 of this Report, on the Sponsorship Program.
- 4.2 The government needs to ensure that officials in all departments possess the skills they need to meet their obligations and manage their advertising expenditures responsibly. Our audit found that some departments did poorly at carrying out their responsibility for ensuring that agencies complied with the requirements of contracts; other departments met their obligations without difficulty. Some departments did not require that communications agencies seek competitive bids on work they wanted to subcontract, nor did the departments challenge commissions charged by agencies or invoices submitted without adequate support.
- 4.3 The government's communications policy states that federal institutions must suspend their advertising during federal general elections. We noted that this aspect of the policy was properly implemented.

Background and other observations

- 4.4 Unlike the Sponsorship Program, for which CCSB was fully responsible, advertising responsibilities were shared. CCSB was responsible for selecting the agencies; individual departments were responsible for managing the advertising campaigns and ensuring that the contract terms and conditions were met.
- **4.5** The Privy Council Office provides strategic oversight and coordination for government advertising.
- 4.6 While this chapter includes the names of various contractors, it must be noted that our conclusions about management practices and actions refer only to those of public servants. The rules and regulations we refer to are those that apply to public servants; they do not apply to contractors. We did not audit the records of the private sector contractors. Consequently, our conclusions cannot and do not pertain to any practices that contractors followed.

The Privy Council Office, on behalf of the government, has responded. The entities we audited agree with the findings contained in chapters 3, 4, and 5. Our recommendations and the detailed responses appear in the Overall Main Points at the beginning of this booklet.

Introduction

Advertising allows the government to inform Canadians about its programs and initiatives

- 4.7 Advertising is a way for the government to speak directly to citizens, whether informing them about services, programs, initiatives, and government policies; about their rights and responsibilities; or about dangers or risks to public health, safety, and the environment.
- 4.8 In recent years, for example, the Canada Customs and Revenue Agency has advertised the use of its Web site for filing tax returns electronically. National Defence has used advertising as a recruiting tool. Health Canada has advertised its anti-tobacco initiative, and the Department of Finance has promoted Canada Savings Bonds.
- **4.9** Between 1998–99 and 2002–03, the federal government ran more than 2,200 advertising activities with contracts valued at about \$793 million, making it one of the larger advertisers in the country.
- 4.10 The Government of Canada contracts with communications agencies to develop concepts and plan its advertising campaigns, produce advertising material, and plan all ad placements in the media. It also has a service agreement with an agency of record, which buys space and time in the media for all government advertising and negotiates the payment rates.

 Communications agencies receive hourly rates and a 17.65 percent commission on production work they subcontract out. For planning media placements, they also receive, through the agency of record, a commission of 11.75 percent on media space and time purchased by the agency of record. For placing ads and making payments to the media and the communications agencies, the agency of record receives a 3.25 percent commission.
- 4.11 A corporate approach. Until 1998, there was no unified approach to government advertising. Most federal departments and agencies had their own logos and promoted their programs and services individually. Then the government decided on a corporate approach to advertising. It wanted to ensure that it spoke with one voice when advertising its programs and services. To help departments develop and implement communications plans and strategies, particularly for advertising, in 2001 the Privy Council Office (PCO) developed a communications framework and marketing plan based on the priorities set out in the Speech from the Throne. In concert with the Treasury Board Secretariat, the PCO also launched a brand rationalization process, with about 800 brands and logos ultimately replaced by a common look and the Canada wordmark.
- 4.12 The PCO's Communications and Consultation Secretariat advises Cabinet on communications strategies, including advertising. As Chair of the Government Advertising Committee, the PCO provides advice and guidance to departments on planning and developing major advertising campaigns. It advises and supports the Cabinet Committee on Government Communications, which is chaired by the Minister of Public Works and

Government Services and oversees the government's corporate communications strategy and approach, including advertising.

Advertising activities are the responsibility of individual departments but are centrally co-ordinated

- 4.13 Individual departments identify their advertising needs based on their program priorities and the government's key priorities; they must use Public Works and Government Services Canada (PWGSC) to contract for all advertising services and public opinion research (see Chapter 5 of this Report), after obtaining authorization from Communication Canada.
- 4.14 Departments identify the funds to be used for advertising and they plan, develop, and implement advertising campaigns. Major campaigns must be submitted for review to the Government Advertising Committee, chaired by the Privy Council Office.
- 4.15 Departments have to pre-test and evaluate all major campaigns and forward the results to Communication Canada. Each department manages its own contracts with the advertising agencies and ensures when it pays for services that the terms and conditions of the contracts have been respected.
- 4.16 Until September 2001, the Communications Coordination Services Branch (CCSB) of PWGSC was responsible for collecting and reviewing departments' advertising plans; issuing a registration number for each advertisement (referred to as an "ADV" number); gathering and analyzing departments' advertising and public opinion research plans; and informing the Privy Council Office of these activities. In September 2001, co-ordination of advertising was assumed by Communication Canada, an organization created by the amalgamation of CCSB with the Canada Information Office.
- 4.17 Public Works and Government Services Canada is responsible for ensuring the integrity of the contracting process in the federal government's advertising activities. Until September 2001, its Communications Coordination Services Branch was responsible for selecting advertising agencies and the agency of record and for issuing contracts to them on behalf of all federal departments. CCSB handled contracting for advertising services itself rather than using PWGSC's central contracting service. When CCSB ceased to exist in September 2001, all contracting for advertising services was assumed by the Communication Procurement Directorate, a group in PWGSC's procurement arm, thereby separating the procurement of advertising from the management of the program.

Focus of the audit

4.18 Our objective was to determine whether, in contracting for advertising services, the federal government ensured that it obtained best value for the Crown in a process that was transparent and gave equitable access to suppliers of advertising services. We also wanted to determine whether departments ensured that their advertising campaigns were designed to achieve the expected results. Finally, we wanted to assess whether the systems and procedures in place allowed for a corporate approach to advertising

activities and their co-ordination, as required by the Treasury Board's policy on communications. Further details are found at the end of the chapter in **About the Audit**.

4.19 It must be noted that our conclusions about the management practices and actions for contracting refer to those of public servants. The rules and regulations we refer to are those that apply to public servants; they do not apply to contractors. We did not audit the records of the private contractors. Consequently, our conclusions cannot and do not pertain to any practices that contractors followed.

Observations

Selection of agencies

Competitive process was not used in the selection of several advertising agencies

- **4.20** As the only contracting authority for advertising services, PWGSC is responsible for selecting the advertising agencies used by all federal organizations. In the period covered by this audit, the Department's Advertising and Public Opinion Research Sector, or APORS (1994–97) and subsequently CCSB was responsible for selecting agencies.
- 4.21 The objective of government contracting is to acquire goods and services in a manner that enhances suppliers' access to government business, encourages competition and fairness, and results in the best value to the Crown or the optimal balance of overall benefits to the Canadian people. It was CCSB's responsibility to ensure that the process for selecting advertising agencies was transparent. We expected the files to be properly documented and, as recommended by the government's contracting policy, to provide a complete audit trail containing details on matters such as options considered, decisions, approvals, and amendments to contracts. We audited the selection of advertising agencies for 10 departments and one Crown corporation, Canada Mortgage and Housing Corporation.
- 4.22 In the cases described on pages 6–7, we noted contracts that had been awarded to companies without a proper competitive process. Other potential suppliers were not given the opportunity to compete for the work.

A competitive process that was used broke the contracting rules

4.23 The government's contracting policy requires that the acquisition of goods and services through contracting follow a process that enhances access, competition, and fairness and obtains the best value possible. From 1998–99 to 2002–03, the Government of Canada issued advertising contracts valued at over \$793 million. In our sample of 14 files on selection processes that occurred during that period, we found that most of the agencies were selected in a manner that did not comply with the government's own contracting policy.

Contracts awarded without competitive bids

Contracts for Tourism Canada worth over \$65 million awarded to BCP

In 1994, PWGSC conducted a selection process for Tourism Canada.

- Vickers and Benson Co. Limited was informed that it had been selected to support Tourism Canada's advertising and communications requirements in the United States.
- BCP and four other bidders were informed in writing that they had not been selected.
- We found no documentation in the files to indicate that PWGSC subsequently held a competition and selected BCP.
- Between 1 April 1995 and 31 March 2003, Tourism Canada and the Canadian Tourism Commission paid BCP \$65.7 million for advertising projects.

In our opinion, advertising contracts were awarded to BCP on a sole-source basis. There is no assurance that the government obtained the best value for these expenditures. Other potential suppliers were never given the opportunity to compete for the \$65.7 million in contracts.

Contracts for Justice Canada worth over \$5.4 million awarded to Groupaction

As a member of a consortium that PWGSC had selected in 1993* for Justice Canada, Groupaction was the advertising agency for that Department.

- In 1998, Justice officials informed CCSB that they were not satisfied with Groupaction's work and urged it to select a new agency through a competitive process. They asked again in March 1999.
- CCSB began a competitive process in mid-1999 and advised Groupaction that until the process was completed, Justice would renew the long-term agreement with Groupaction on a month-to-month basis. However, the process was halted without

explanation and Groupaction was retained until mid-2002. During that period (mid-1999 to mid-2002), contracts worth over \$5.4 million were issued to Groupaction.

Contracts for Canada Custom and Revenue Agency worth over \$1.3 million awarded to Groupaction

- PWGSC initiated a competitive process in September 1994 to select a national advertising agency for the Canada Customs and Revenue Agency (CCRA). Seventeen agencies participated in the competition. In February 1995, PWGSC advised the 17 agencies that the competition had been cancelled, but gave no explanation.
- Around the same time, PWGSC ran competitions for CCRA and selected advertising agencies for its Quebec, Ontario, Western, and Atlantic regions; it selected Groupaction in May 1995 as the agency in the Quebec region.
- In 2001, PWGSC issued two contracts to Groupaction to develop two national advertising campaigns for the Canada Customs and Revenue Agency, although Groupaction had been selected as the agency only in the Quebec region.
- No competitive process was conducted for the national advertising projects. Other potential suppliers were never given the opportunity to compete for contracts worth over \$1.3 million.

Contract for the Canada Health Care campaign designed to direct work to a company not selected through a competition process

The Canada Health Care campaign was launched in September 2000 to inform Canadians about a recent federal-provincial agreement to increase funding for health care.

The Privy Council Office (PCO) was responsible for the content of the

advertising campaign, but the Canada Information Office (CIO), at the time the Government of Canada's operational arm for corporate communications, was responsible for managing the campaign itself.

The PCO explained to us that it wanted a particular agency, The Gingko Group, to design and produce the campaign because the agency had produced a similar campaign for a provincial government and had been highly recommended.

However, Gingko had not been selected as an assigned agency for the CIO through a competitive process. Contracting rules allow for sole-sourcing in emergencies or when only one supplier is qualified. CCSB chose to create an arrangement that hid the true substance of the transaction. It issued a contract for \$619,000 to Communication Coffin, which had been selected in 1997 for sponsorship and advertising activities. There was no evidence in the file to suggest that Coffin was to do any of the work. Coffin subcontracted all of the work to Gingko. The official who managed this file could not provide us with a rationale or documentation to explain why CCSB did not issue the contract to Gingko for the work.

The file shows that the Canada Information Office and the PCO dealt directly with Gingko as the main creative agency on the campaign and that Gingko did all the work (planning, strategy, creative, production, and so on). There is no sign that Coffin, the firm with the contract for this campaign, did any work on it.

Bids not obtained as required by the contract. In order for Coffin to subcontract work valued at more than \$25,000, it was required to obtain three bids and to justify its choice of subcontractor to the CIO. There is no evidence in the file to indicate that this was done.

^{*}We did not audit that selection process.

Contracts awarded without competitive bids (continued)

Unnecessary commission paid for subcontracted work. Gingko, the agency that was actually developing the campaign, subcontracted production work and submitted the bills to Coffin after adding the standard commission of 17.65 percent on the subcontracted work. Coffin billed the government for reimbursement of Gingko's invoice and added another 17.65 percent commission for itself.

In the end, Coffin received \$78,400 in commissions for subcontracting work to Gingko, a cost that would have been avoided if CCSB had awarded the contract directly to Gingko, who did all the work.

Nothing in the file indicated that it had ever been the intention of the CIO or CCSB that Coffin do the work. In order to circumvent requirements for

competitive bidding and ensure that Gingko would do the work, CCSB created a contract designed to hide the true substance of the transaction.

- 4.24 Between 1994 and 2001, PWGSC conducted selection processes on behalf of about 36 departments and agencies and some Crown corporations. Through a selection process in 1997, CCSB selected Media/I.D.A. Vision, a company related to Groupe Everest, as the government's agency of record. We reviewed 14 selection processes, including the one used to select the agency of record.
- **4.25** The selection process started with CCSB's posting of a Notice of Planned Procurement, called a request for "letters of interest," on the government's Open Bidding System (later known as MERX). The notice followed a client department's request to PWGSC to obtain general advertising services.
- 4.26 In most of the files we examined, we did not see evidence that APORS, and later CCSB, had specified which requirements were mandatory and which would be rated, how bidders would be rated, the method that would be used to select the suppliers, or the pass mark (score) they had to obtain. All of this information was required under PWGSC's own procedures.
- **4.27** In 12 of the 14 selection processes, including the one for the agency of record, the request for letters of interest did not specify how long the services would be required. In the selection of agencies for Department of Finance Canada and the Canada Mortgage and Housing Corporation (CMHC), both in 2001, the request for letters of interest mentioned that the winning agency would be retained for a period of three years with an option to renew twice, each time for an additional year.
- **4.28** In seven cases, including the selection of the agency of record, the requests for letters of interest were posted for periods ranging from 12 to 18 days, although the government's policy on contracting for advertising required that they be posted on the MERX system for 30 days.
- 4.29 Competing agencies had to respond to a qualification questionnaire sent to them by PWGSC after they had indicated an interest in competing for the advertised work. From responses it received to the questionnaire, PWGSC compiled short lists of usually four or five agencies. These agencies were then invited to make a presentation and were rated on that basis.

- 4.30 In most cases, we did not see evidence that the questionnaires completed by the competing agencies were evaluated. As a result, it is impossible to determine how the requirements were scored or short lists arrived at, or how and by what criteria the majority of interested communications agencies were screened out in the first rounds of the processes.
- 4.31 Our review of selection processes for advertising agencies found in most cases that the letter advising the successful agency of its selection did not mention the duration of the contract.

Failure to fulfil contractual obligations and ensure appropriate oversight of the agency of record

- 4.32 The March 1998 agreement with Media/I.D.A. Vision, making it the agency of record for the next five years, stated that the agency had a "material obligation to negotiate and obtain from the media suppliers the best possible prices, rates or fees charged by these suppliers" for the placement of government ads. The statement of work specified that the agency of record had "to co-ordinate and, where necessary, to adjust all media plans to ensure optimum scheduling and impact and to achieve the most favourable reach and frequency at optimum cost."
- 4.33 The agreement stipulated that the government had a specific responsibility: "To periodically verify if the contractor has fulfilled his material obligation, the Minister will conduct audits of the Contractor's records pertaining to this Contract." The agreement described the actions that the Minister would take should an audit discover specified deficiencies, such as a failure by the agency of record to obtain the best possible prices in an advertising campaign. In the five years that the contract has been in place, no audit of the agency has been conducted.
- 4.34 The Government of Canada issued contracts over \$435 million on media placement purchases during the five years covered by its agreement with Media/I.D.A. Vision, its agency of record. The agreement with Media/I.D.A. Vision stipulated that once the gross media billings in a fiscal year reached \$50 million, the fee that departments paid would be reduced from 3.25 percent to 2.5 percent depending on the level of billing. We would expect the government to ensure that the fee was reduced as appropriate.
- 4.35 Officials told us they had monitored the cumulative total of expenditures on media placements and had informed Media/I.D.A. Vision when the fee was to change. However, they could not give us any documentation to support this claim.
- 4.36 While we saw no evidence that CCSB ever instructed departments to reduce the rate they paid to the agency of record, we did see evidence that Media/I.D.A. Vision credited departments' accounts to reflect some reduction in the commission. However, there is no evidence that CCSB ever verified that the amounts credited reflected the correct reduction.

4.37 From Media/I.D.A. Vision's invoices, it was difficult for departments to verify how much had been paid to media outlets for ad placements. The invoices billed gross amounts, including commissions to both the agency of record and the communications agency. That practice was changed in July 2002 at the request of PWGSC, after some departments asked for more detailed information. Media/I.D.A. Vision then started to show the breakdown of commissions in its invoices.

Management of contracts by departments

4.38 Once CCSB had selected an advertising agency for a client department, it issued contracts between the two parties for the specific advertising services requested by the department. Departmental officials were responsible for ensuring not only that the contract requirements were met but also that the *Financial Administration Act* was respected. We audited 34 contracts for advertising services.

Unwritten contracts exposed the Crown to undue risk

- **4.39** Signed contracts with detailed terms and conditions outline the responsibilities of each party. Written contracts are important because they serve to limit the Crown's liability while specifying what the contractor must do to be paid.
- **4.40** We found cases in which contracts had been issued verbally by CCSB on behalf of Health Canada. The government's contracting policy allows for this practice, but it also states that a written contract should be signed as soon as possible after the notice of the award has been given to the successful bidder.
- 4.41 In some cases, however, the contractor worked for several weeks before terms and conditions were specified and a contract signed. In one case at Health Canada, the National Organs and Tissues Awareness campaign, a \$1.52 million contract signed with BCP on 28 March 2002 stated that the work was to be completed by 31 March 2002—three days later. In fact, the work had already been completed and the campaign had been airing since 4 March.
- 4.42 Another case at Health Canada involved a contract valued at \$414,405 for the development of an anti-tobacco campaign. We observed that the contractor's proposal was dated 25 March 2002; the contract was issued on 28 March 2002 and was in effect until 31 March 2002, three days later. Of particular concern to us is that invoices totalling \$179,570 had been approved for payment, one as early as 15 February—more than five weeks before the contract was signed. Without a written contract, it was impossible for Health Canada to ensure before it paid the invoices that terms and conditions of the contract had been respected.
- 4.43 The files show that Health Canada and CCSB did begin the contracting process before the work started. Health Canada officials told us that although work began before a written contract existed, they had never intended (nor was it the intent of the contracting policy) that the work would be completed before the contract was signed.

Departments did not ensure that contract terms and conditions were respected

- 4.44 Once a contract was issued by CCSB, the client department was responsible for ensuring that the contract terms and conditions and the relevant provisions of the *Financial Administration Act* were respected. We expected that departments would do so before approving payments to the agencies.
- 4.45 We also expected that invoices would be approved by authorized persons in the department in accordance with section 34 of the *Financial Administration Act*. Section 34 says the authorized person must ensure that

the work has been performed, the goods supplied or the service rendered, as the case may be, and that the price charged is according to the contract or, if not specified in the contract, is reasonable: and

where, pursuant to the contract, a payment is to be made before the completion of the work, delivery of the goods or rendering of the service, as the case may be, that the payment is according to the contract.

4.46 In many cases, departmental staff did not take adequate steps to ensure that the contractor had met the requirements of the contract.

No challenge of commissions on work subcontracted to affiliated companies

- 4.47 The contracts prohibited the payment of a commission for overhead or profit to a "member of the Strategic Alliance" but did not define strategic alliance. An official of PWGSC told us that the expression referred to the companies that agencies had listed as affiliates on their responses to the qualification questionnaire during the selection process. Over the years, communications agencies have merged, changed their names, or been bought. We saw no evidence that departments and PWGSC had enforced the contract clause on strategic alliances or verified the lists of strategic alliance members.
- 4.48 In three departments in our sample (CCRA, PWGSC, and Department of Justice Canada), we found invoices showing that they had been charged a commission of 17.65 percent on work subcontracted by the agency to a supplier affiliated with it. The invoices gave some indication that the companies had a close relationship—for example, both the agency and the subcontractor had the same logo on their letterhead, the same telephone number, or closely similar names. We saw no evidence that the departments had challenged any of the invoices. For example, on six invoices totalling \$47,465 under a contract with CCSB, Groupe Everest charged the government a commission of 17.65 percent or \$8,378 for subcontracting work to Everest-Estrie. We saw no evidence that CCSB ever challenged these invoices.

Subcontracted work was not tendered competitively

- 4.49 In each of the departments we reviewed, we found cases with no evidence that the contractor had obtained three bids on subcontracted work over \$25,000 or had justified its choice of subcontractor to the department, as required in the contract.
- 4.50 For example, under a \$3 million contract managed by CCSB for Attractions Canada in 2000–01, Groupe Everest subcontracted work valued at \$274,735 to one company and \$150,000 to another without submitting evidence that it had obtained three bids.
- 4.51 Under a \$1.9 million contract managed by Department of Justice for an advertising activity in 2000, Groupaction subcontracted work valued at \$355,999 to Alleluia Design without submitting evidence that it had obtained three bids. Of particular concern is that Groupaction was affiliated with Alleluia. Groupaction and Alleluia Design invoices showed the same phone number and the same departmental reference number, yet the Department did not question the companies' relationship and approved the payment of a 17.65 percent commission.

Departments approved payment of invoices with incomplete or no supporting documentation

- **4.52** Before approving payments, departments were to ensure that the invoices had all the documentation required by the contracts to support the amounts claimed. In several cases, we found that supporting documentation was incomplete or absent.
- 4.53 For example, CCSB approved an invoice for \$800,000 submitted by Groupe Everest in October 1997 that gave only a short description of the items charged, with no supporting documentation. The Canada Information Office approved an invoice for \$1.2 million from Media/I.D.A. Vision with insufficient documentation to support it. On a contract valued at \$856,000 related to its 1999–2000 annual anti-racism campaign, the Department of Canadian Heritage approved payments to its agency, Scott Thornley Company Inc. of Toronto, for invoices totalling \$250,000 with insufficient documentation.
- 4.54 Invoices that we reviewed at the Department of Finance, the Department of Canadian Heritage, Human Resources Development Canada, and CCSB were for lump sums, with no breakdown of hours worked by each category of employee, as required by the contracts. There was insufficient information for officials to determine that the charges were acceptable. Nonetheless, the invoices were approved for payment.
- 4.55 The contracts required that each invoice contain the contractor's certification that the work had been done and that the charges were consistent with the contract terms. Many of the invoices from communications agencies lacked the required certification. Nor did we see any evidence of follow-up by departmental officials.

Estimates were not always approved by departments before work started

- 4.56 The contracts we reviewed required the agencies to submit written estimates to the departments for approval before beginning any work. If the cost of the completed work exceeded the approved estimates, the Crown would not have to pay more than 10 percent over the estimate.
- 4.57 Many files we reviewed contained no approved estimates—for example, contracts managed by CCSB for Attractions Canada. In the majority of invoices for the Department of Canadian Heritage's \$1.9 million millennium anti-racism campaign in 1999–2000, the Department used the initial global budget as the estimate. We could not establish whether this initial budget had been approved in the first place. The Department has since changed its practices and was able to demonstrate that for the 2002–03 anti-racism campaign, a detailed budget and the scope of work had been approved and were attached to the contract.
- 4.58 In one case, the Department of Finance approved an invoice for \$294,593 from Vickers and Benson before it had approved the related estimate. Our review of the documentation showed that the services were delivered in early fall and the invoice was dated 16 November 2000. The related estimates (\$766 and \$315,012 respectively) were dated 5 January and 14 February 2001. Although the invoice was not paid until 26 February 2001 after the Department had received the estimates, we are concerned that it did not receive them until three months after the work was completed and the invoice sent.
- 4.59 Our audit also found similar and other contract management problems in the Canadian Tourism Commission (see case study on page 13), and in the Canada Mortgage and Housing Corporation (see case study on page 14).

Obligations under the Financial Administration Act were not always met

- **4.60** Many of the files we audited contained no evidence that departmental officials had met their obligations under the *Financial Administration Act*. Some public servants, for example,
 - approved payments without reference to the work to be performed, normally set out in the contract;
 - did not verify that commissions charged were consistent with contract terms; and
 - approved the payment of invoices without supporting documentation showing what services had been received and that the charges were consistent with contract terms.
- **4.61** In our opinion, public servants in those cases did not meet their obligations under the *Financial Administration Act*.

Some good practices and some problems corrected

4.62 We also found that in some cases, departments appeared to have no difficulty managing contracts properly. We saw evidence that HRDC had good controls and had reconciled payments with approved estimates. At the

Management of advertising contracts by the Canadian Tourism Commission

Until December 2000, the Canadian Tourism Commission (CTC) was part of Industry Canada. With advertising contracts averaging more than \$40 million a year, it was the largest advertiser in the Government of Canada. When it became a Crown corporation, the CTC continued using the same advertising agencies selected in 1994; until March 2003, for the majority of projects it used terms and conditions similar to those of the old PWGSC contracts.

We expected that before approving payments, the CTC would ensure that the contract requirements had been met. In a sample of contracts and payments between 1 January 2001 and 31 March 2003, we observed a number of problems in contract management similar to those we saw in departments. For example, contrary to terms and conditions of the contracts, estimates were not always approved before invoices were submitted. Payments were made for invoices that showed only lump sum amounts instead of hourly fees, as required by the contracts. In one case we noted a

management fee that had not been specified in the contract but was paid on the basis of verbal negotiations. The CTC approved payments for subcontracted work exceeding \$25,000, although the contractor had not submitted the required three bids on the work. In addition, we noted that the CTC did not regularly compare its total payments to advertising agencies with the value of each contract to ensure that the total amounts it paid were in accordance with contract terms and conditions.

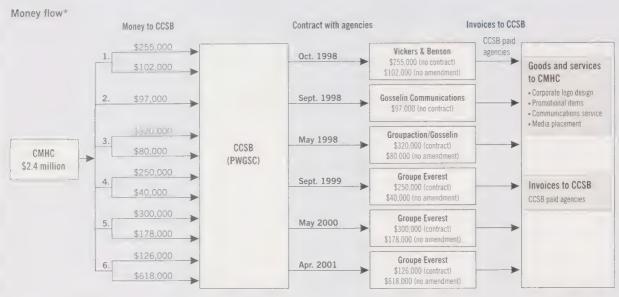
The CTC earned an estimated \$9 million a year in revenues from sales of advertisements in publications and newspaper inserts. We noted that the CTC did not directly control all of these revenues; they were managed by the advertising agencies. However, in the contracts the CTC had not identified its expectations or the agencies' obligations in their management of the revenues. As a result, the CTC did not properly control the activities of the agencies. The CTC now collects the revenues and has stopped relying on the two previous advertising agencies.

Canada Customs and Revenue Agency and the departments of Finance, Health, and Justice, invoices from advertising agencies contained the contractor's certification as required by the contracts.

- 4.63 We found that National Defence had taken several measures to correct significant problems identified in 2003 by an internal audit of contracting for advertising services. For example, it now ensures that production estimates are signed by the head of operations after review by project officers. To help project officers assess the accuracy of production estimates and challenge them if necessary, the Department conducted a "job shadowing" experience, taking staff to the advertising agency's premises to become familiar with each step of the production process. We saw evidence that invoices had been revised following challenges by the Department.
- 4.64 National Defence also adopted a system to track estimates against invoices. It has provided advertising training to its staff and, at the time of our audit, four employees had just completed the Communications and Advertising Accredited Professional (CAAP) program and obtained certification.

Poor management of contractual arrangements

Canada Mortgage and Housing Corporation's arrangements with CCSB (PWGSC)—1998 to 2001



*Figures do not include GST and PST (when applicable)

In 1998, Canada Mortgage and Housing Corporation (CMHC) needed to obtain the services of an advertising agency. Its Vice-President for Communications, who previously had worked at the Canada Information Office (CIO), suggested that CMHC ask CCSB to obtain the needed services on CMHC's behalf. This was thought to be an efficient way to proceed, as CMHC's own procurement function had been downsized.

Except in one case, CCSB chose the agencies to supply advertising services for CMHC. None of the agencies had been properly pre-selected through CCSB's selection process. From 1998 to 2001, CMHC used Vickers & Benson, Gosselin Communication, Groupaction Gosselin, and Groupe Everest.

In this arrangement, CMHC took the highly unusual step of transferring money to CCSB. In return, CCSB contracted with each advertising agency to deliver goods or services directly to CMHC and to invoice CCSB. In nearly all cases, based on CMHC's initialling that goods had been received, CCSB approved the payment of invoices and

was then responsible for forwarding payments to suppliers.

This was an unusual arrangement, with CCSB an intermediary who contracted with the supplier and facilitated payments on behalf of CMHC. Normally a supplier and purchaser sign a contract once the supplier is chosen, and CCSB's involvement ends. However, in this case CCSB contracted with the supplier. The contract contained terms and conditions with which the supplier had to comply. However, the specifics of what was to be delivered were detailed in a statement of work negotiated between CMHC and the supplier.

There were six such contracts between CCSB and four advertising agencies from 1998 to 2001. CMHC paid CCSB about \$2.4 million.

We noted two cases where CCSB had the contract and CMHC had the statement of work but neither had both, in effect separating the responsibilities of purchaser and contractor. In the four other cases, CMHC told us it had ensured that goods and services had

been received in accordance with the statement of work.

The separation of the purchaser's role from the contractor's role resulted in the following problems:

- CMHC monitored goods and services received according to the statement of work but did not have a copy of CCSB's contract with the agency. CCSB officials approved payments under section 34 of the *Financial Administration Act* on the basis that CMHC was satisfied with what it had received from the supplier. However, neither CMHC nor CCSB was in a position to certify that goods and services received were consistent with the terms and conditions of the contract.
- When CMHC required additional work or when meeting contract terms and conditions caused fees to exceed the contract value, it forwarded more money to CCSB. However, it did not amend the statement of work and CCSB failed to amend the contract. Therefore, the written contract no longer accurately reflected what was required of the contractor.

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Poor management of contractual arrangements (continued)

- CMHC made the final payment directly to Vickers & Benson although it had no contract with them, having established this arrangement whereby CCSB contracted with its suppliers.
 Therefore, CMHC had no basis for making the payment.
- We observed that CMHC advanced CCSB \$250;000 in September 1999, but CCSB did not pay some Groupe Everest's invoices until May 2001. There was no requirement for CCSB to account for how it spent CMHC's money. CMHC told us it checked goods received against invoices. We are concerned that CCSB was circumventing the appropriation process by collecting money in one year and disbursing it in another year.
- We observed that Groupaction Gosselin Communication (GGC) charged fees based on the number of orders and a 10 percent markup on promotional items that were not specified in the contract with CCSB. However, we saw no evidence that CMHC checked the invoices against the contract terms before giving CCSB approval to pay.
- Contracts were not set up properly to reflect the true value of work.
 We found that CCSB had three contracts with Groupe Everest from 1999 to 2001, totalling \$676,000 (excluding GST). CMHC paid more than \$836,000 (excluding GST) above the value of these three contracts with no amendment of the contracts by CCSB.
- The selection process in this arrangement was flawed, contractual arrangements were problematic, and accountability and transparency were lacking. CMHC did not explain why it chose to pay CCSB rather than to contract directly with the supplier. CMHC informed us that this arrangement resulted in increased administrative burden and effort. In 2001, it reviewed its approach to advertising contracts and stopped using this type of arrangement. CMHC contracted with its own advertising agency through a competitive process and currently contracts directly with the supplier and pays the supplier directly.
- 4.65 The selection processes conducted by CCSB in mid-2001 for the Department of Finance and for CMHC appeared to be more rigorous than in the past. Files were better documented, and the duration of the assignment was mentioned in the request for letters of interest. In addition, CMHC concluded a more detailed agreement with its agencies Gervais, Gagnon Associés Communications, and Publicité Martin Inc., with clear terms and conditions.
- **4.66** We found that staff in some departments did not always understand the terms and conditions of advertising contracts. However, other departments had attracted staff with significant advertising expertise, and some departments had ensured that staff undertook specialized training.
- 4.67 The Canadian Tourism Commission (CTC) selected a new agency in 2002. In November 2002, CTC selected a new advertising agency, Palmer Jarvis. We did not audit that selection process; as a Crown corporation since January 2001, CTC was subject to the requirements of its own contracting policy and not those of the Treasury Board. CTC's internal audit team reviewed the process and concluded that it "complied with CTC's contracting policy and was characterized by a high degree of competition and transparency." However, the internal auditors also identified weaknesses in the quality of the documentation rating the proposals submitted by bidders for the contract.

Departmental management of advertising campaigns

4.68 To examine how departments have managed advertising campaigns, we selected campaigns run by Health Canada, Human Resources Development Canada (HRDC), and the former Canada Information Office, now Communication Canada. The three campaigns are described in the case study on pages 16–17.

Three advertising campaigns managed by three departments

Human Resources and Development Canada

Canada Education Savings Grants 2001–02 Campaign, "First Steps"

The Canada Education Savings Grant (CESG) is a grant from the Government of Canada paid directly into a beneficiary's Registered Education Savings Plan (RESP). It was introduced in January 1998 to give Canadians an added incentive to save for their children's future education. The objective of the campaign was "to increase awareness of CESG especially among parents, increase call-to-action in order to raise the number and value of applications and ensure the visibility of the GoC as sponsor of the program." The grant program's main challenge was to attract more contributions from households with annual income of less than \$60,000.

We audited the fourth year of this five-year campaign, which cost \$3.8 million in 2001–02. The advertising was tied to one of the key priorities in the 2001 Speech from the Throne, Skills and Learning.

Overall, the 2001-02 advertising campaign for the Canada Education Savings Grant was a good example of commonly used practices in communications management, from inception to completion. The creative briefing to the agency was sound and based on a strategic plan prepared by HRDC in conjunction with the agency. It included an environmental analysis, a SWOT analysis (strengths, weaknesses, opportunities, threats), and a marketing plan with clear business objectives. Strengths of the campaign include the use of solid research at each step of the process. We saw a good integration of the Department's resources and its expertise in the management of public

Files were well documented and showed the use of a disciplined and rigorous process. The development of the campaign was based on lessons learned from previous campaigns. The media plan was comprehensive and included marketing and media objectives and a summary of the targeted group's media habits. However, the objectives were stated in broad terms and could have been better quantified with specific targets measuring ad awareness, reach, and frequency in the targeted audience.

The campaign was evaluated at each stage, including testing of the concept before production. The evaluation of the campaign's effectiveness was conducted through a telephone survey of 2,000 Canadians. Of those surveyed, 39 percent claimed to have seen the commercial for the CESG; 71 percent of that group recalled the ad's main message. There was also a high recognition of the Government of Canada as the main sponsor of the ad. However, as no benchmark targets were set for the campaign, it is not clear whether the achievements described in the post-test results met the expectations for the campaign's performance.

Canada Information Office

Television vignettes 2001–02, Citizen Information Initiative

This 2001–02 television vignettes series was a sequence of three 60-second ads designed to promote government services. The full series was launched in 2000 under the Canada Information Office as part of the Citizen Information Initiative, a three-year initiative with a yearly budget of \$19 million.

While broad objectives had been established for the Citizen Information Initiative ("to outline the Government of Canada's priorities and publicize government programs and services, to promote the Government's agenda by increasing awareness of the Government's services and promoting the three access channels; to inform Canadians of services offered by the Government of Canada"), no measurable objectives were established specifically for the vignettes series that our audit covered.

The vignette series was characterized by an exclusive agreement with two television broadcasters, TVA and Global.

Exclusive agreement with two television networks. The 2001–02 television vignette series differed from a normal advertising campaign. It was carried out in exclusive partnership with two private broadcasters, Groupe TVA inc. and Global Television.

Communication Canada could not provide us with a signed agreement on its exclusive broadcasting arrangement with TVA and Global.

Communication Canada told us that under the arrangement, the Canada Information Office had received a \$2.00 value for each dollar it invested with TVA and a \$1.50 value for each dollar invested with Global. However, it could not provide any evidence on how these rates related to normal bulk discounting. Officials told us there had been no attempts to compare the rates with those that could have been obtained from other networks.

The exclusive agreement with TVA and Global included the requirement that the communications agency (Allard-Johnson) would use a specific company (JPL, a production agency related to TVA) to do the production work. This prevented the agency (Allard-Johnson) from competitively tendering this work as required by the contract. The work subcontracted to JPL without competitive bids totalled about \$838,000. The decision to enter into this exclusive arrangement was not supported by any written analysis. It was impossible for us to determine why this agreement was entered into, or what benefits were received.

We found solid evidence of a careful approach to production management. Detailed production files showed meetings between the communications agency, the production house (JPL), the Canada Information Office, and the partnering departments to reach agreement on talent choices, schedules, and shooting plans for the vignettes.

Three advertising campaigns managed by three departments (continued)

However, Communication Canada could not produce any written record of having briefed the agency on any of the three vignette campaigns to describe, among other things, the specific objectives, key messages, and target audience and to give the agency clear direction on producing the concept. Officials told us they had briefed the agency through numerous meetings and telephone conferences.

We note that the Canada Information Office had not established specific objectives for each of the three vignettes in order to measure their contribution to the overall campaign. However, it carried out evaluations that showed that the vignettes series had a degree of success in meeting the objectives of the overall campaign.

Health Canada

"Light and mild" campaign of the Anti-Tobacco Initiative, 2001-02

The "light and mild" campaign, with an estimated total cost of \$9.2 million, was developed after the Minister of Health

challenged the tobacco industry in May 2001 to remove the "light and mild" labels from cigarette packages within the next 100 days.

The stated objectives of the first phase of the campaign were "to set stage (provide framing) for the Minister's announcement of the next steps to addressing the light and mild descriptors issues." The television campaign objective was to "bolster public support for continued federal action to address light and mild descriptors issues." The secondary objectives were to "raise awareness of the confusion caused by light and mild descriptors; raise awareness that light and mild cigarettes can deliver the same toxics in similar concentrations as regular cigarettes with the same possible results."

The "light and mild" campaign clearly was related to a key priority of both Health Canada and the federal government. We saw evidence that the development of the ad campaign followed a rational and logical approach

from concept to final copy, supported by research at each stage. However, the objectives were vague and not measurable. The media plan and budget called for an average of 22 viewings by 95 percent of Canadian adults 18 and over and spending of \$6.7 million over seven weeks. We saw little documented rationale or analysis to support the proposed level of saturation or the level of spending.

No one at Health Canada could tell us how the global budget for the campaign was established in the first place. Health Canada submitted no advertising plan and spending forecast to CCSB, as the government's communications policy required.

- **4.69** We expected to find that departments had followed the requirements of the government's communications policy and
 - reflected the government's key priorities and their own program priorities in the campaigns,
 - sent their advertising plan to Communication Canada,
 - pre-tested and evaluated the campaigns,
 - submitted their campaign proposals to the Government Advertising Committee and sought the advice of the Committee and/or the Privy Council Office during the process, and
 - obtained a registration (ADV) number from Communication Canada before placing ads in the media.
- **4.70** We also looked for evidence that each department had followed practices commonly used in the advertising industry and
 - presented to the assigned agency a creative briefing with clear and measurable objectives for the campaign, a description of the target audience, and a summary of the desired effect;
 - obtained from the agency a media plan for reaching and persuading the target audience, including a budget outline, a summary of the target

- audience's media habits, and a description of the effort (spending/reach) required by region, week, and type of medium;
- monitored the development of creative content, from the design of the concept through final copy and production, including testing of the advertisements; and
- evaluated the performance of the campaign in producing the expected results.
- 4.71 How well each organization met these criteria in managing their advertising campaigns is summarized in Exhibit 4.1.

Co-ordination of advertising activities

4.72 The Privy Council Office (PCO) advises departments and agencies on government priorities and themes to ensure that they reflect them in their strategic communications plans. As Chair of the Government Advertising Committee, which reviews and advises departments on their advertising plans, the PCO also helps to ensure that the plans are consistent with key government priorities and the government's advertising plan.

A move led by the Privy Council Office toward a corporate approach to advertising

4.73 In the 2001–02 Communications Framework and Marketing Plan, the Privy Council Office established key priorities for government advertising and provided guidelines to departments for reflecting them in their own advertising activities. It encouraged departments to focus on key priorities and to communicate them in a way that would address citizens' interests and concerns. It also called for better integration of advertising campaigns by departments.

Exhibit 4.1 How three departments managed advertising campaigns

Campaign component	Human Resources Development Canada	Canada Information Office	Health Canada
Campaign development and briefing	Well done	No documentation	Vague objectives
Media plan	Comprehensive	No rationale for strategy chosen	Several strengths but no rationale for the budget and saturation
Monitoring development of creative elements	Well done	Well done	Well done
Evaluation against objectives	Useful data, no benchmarks	Data received, no benchmarks and no objectives	Limited
Compliance with communications policy	Yes	Yes	No

4.74 The PCO measured the impact of the 2001–02 marketing plan and of major campaigns, and it integrated the results in the 2002–03 marketing plan and an annual advertising plan. It identified the need for a longer planning cycle (two years) and more systematic evaluations of advertising campaigns. In 2002, with Communication Canada, the PCO developed an advertising campaign evaluation tool to be used by all federal entities. The PCO holds monthly meetings with departmental directors general of communications to share information and good practices.

Review of major campaigns lacked transparency

4.75 The Government Advertising Committee's records of decisions from January 2001 to May 2003 show that the Committee reviewed about 100 advertising campaigns. The records suggest that in many cases, the Committee challenged departments' proposed campaigns and refused to approve their ads without specified changes. However, the Government Advertising Committee keeps no minutes of its meetings and we were provided no criteria by which it approved or rejected campaigns. Further, because what constitutes the criteria for a major campaign has not been defined, we could not determine that all major campaigns were submitted to the Committee as the communications policy requires.

Communication Canada authorized ads without the required documentation

- 4.76 As noted, the communications policy calls for departments to submit their advertising plans to Communication Canada (until September 2001, to CCSB), which summarizes the plans in order to assist the PCO in establishing the government's annual advertising plans. Communication Canada officials provided us with consolidated advertising plans for the last five years, but they told us that the plans were not completely reliable because departments had not always complied with the requirements.
- 4.77 A department that submits a major campaign for review by the Government Advertising Committee is advised verbally when it can request an ADV number from Communication Canada to place the campaign. This is a key control step to ensure that all government ads are co-ordinated and monitored centrally. Guidelines issued in 2000 listed key documents that must accompany a request for an ADV number, including results of campaign pre-testing, a complete media plan, ad samples, and production and media placement costs.
- 4.78 We found that Communication Canada on several occasions issued an ADV number at a department's request without having received the required accompanying documents. For example, we rarely found results of ad campaign pre-testing. Officials told us they checked mainly for evidence that the ad was in both official languages and advertised a policy, service, or program rather than promoting a minister or a department. We saw some examples of requests that CCSB/Communication Canada had denied, demonstrating a certain degree of control. To issue the ADV number for a major campaign, officials also relied on the Government Advertising Committee's verbal approval of the campaign.

Withdrawal of advertising during elections worked as intended

4.79 The government's communications policy states that federal institutions must suspend their advertising during federal general elections. Suspending all media placements for an organization the size of the Government of Canada requires a quick and well co-ordinated response to an election call. For the general election in November 2000, we found evidence that the system reacted swiftly and that ads were pulled off the air in time.

Lack of up-to-date information on the extent of advertising activities

4.80 Communication Canada maintains a database of departments' requisitions for advertising contracts. PWGSC maintains a database of the contracts. Because bills are paid by individual departments, Communication Canada's and PWGSC's databases do not have a record of actual expenditures. As a result, the available data on advertising expenditures are not reliable: they capture only the value of the requisitions of the contracts.

New measures for renewal of advertising practices

- 4.81 On 28 April 2003, after an extensive review of advertising practices and policies by the President of the Treasury Board and consultations with the advertising industry, the Minister of Public Works and Government Services (who is also the minister responsible for Communication Canada) announced extensive changes in the federal government's advertising practices. (See the section Treasury Board Secretariat initiatives in Chapter 3 of our Report.)
- 4.82 The new measures include the following:
 - Eliminating long-term partnerships between advertising agencies and individual departments and using specific procurement tools according to the value of each assignment. For example, contracts for less than \$75,000 would be assigned to agencies selected through standing offers; for contracts from \$75,000 to \$750,000, agencies would be selected from a list of qualified suppliers. Campaigns worth more than \$750,000 would be subject to open competition.
 - Moving from paying agencies commissions to paying hourly rates and fees, as the private sector does. Agencies no longer receive the 17.65 percent commission on subcontracted work but instead are reimbursed only for their out-of-pocket costs.
 - Introducing a new scope of work and new method of payment for the agency of record, with several measures to ensure accountability and evaluation, including a formal third-party audit of the agency's performance after two years. In July 2003, the government issued a request for proposals to find a new agency of record. It included strict evaluation and audit clauses.
 - Providing training for public servants in all aspects of advertising and creating a centre of expertise at Communication Canada to offer exchanges and seminars with outside agencies.

- Issuing a first annual report on government advertising, including expenditures, a review of some campaigns, and a description of the system and the roles of key players.
- Providing for an audit to be conducted in 2005.

These new measures have the potential to strengthen the management of advertising activities—only, however, if the government ensures that public servants not only understand the rules but also follow them.

Conclusion

- 4.83 The Communications Coordination Services Branch broke the rules in most of the selection processes that we audited. In some cases, we found no evidence that a competitive process was conducted at all. In the selection of agencies and awarding of contracts, we observed problems similar to those reported in Chapter 3 of this Report, on sponsorship: with few exceptions, the same public servants broke the same rules in awarding contracts to the same companies. In breaking the rules, CCSB did not ensure best value for the Crown.
- 4.84 Individual departments did not ensure that terms and conditions of the contracts were respected. Overall, we observed a lack of attention to the contracting rules and an absence of rigour in the enforcement of contract terms and conditions. Departments did not require agencies to seek bids for subcontracted work, nor did they challenge commissions charged and invoices that were not adequately supported. Departmental officials who approved payments were not provided with enough supporting documentation in many cases to adequately discharge their responsibilities under the *Financial Administration Act*. We found a wide range of practices in the way three major advertising campaigns were managed. We noted some good practices in the management of advertising contracts, demonstrating that the rules can be followed. These rules must be followed consistently.
- 4.85 The Government of Canada issued contracts over \$435 million on media placement purchases during the five years covered by its agreement with Media/I.D.A. Vision, its agency of record. The government did not properly monitor the performance of its agency of record or audit it as required. Until the fourth year of the five-year agreement, the agency of record did not provide departments with the information they needed to properly verify individual billings. The government did not ensure that it received best value for media placements.
- 4.86 Key aspects of the government's co-ordinated approach to advertising appear to work. Government priorities are communicated to those responsible for developing advertising strategies. The system worked to ensure that advertising ceased when the 2000 general election was called. However, there are several areas that need improvement, particularly ensuring greater transparency and improving the quality of information available on the government's advertising activities.

4.87 The government has announced significant changes to the management of advertising activities and has started implementing them. If implemented properly, these changes could provide a basis to address the weaknesses we observed during our audit. However, adherence to the rules already in place must become a priority not only for Communications Canada but also for each government department.

About the Audit

Objectives

Our audit objectives were to determine

- whether the government has exercised adequate control over its advertising activities,
- · whether the results of these activities have been measured and reported to Parliament, and
- to what extent the government has taken corrective action as a result of previous audits or reviews.

Scope and approach

We examined the systems and practices used in managing advertising activities. We examined a risk-based sample of 14 selection processes for advertising agencies for 10 departments and 1 Crown corporation, conducted by the Communications Coordination Services Branch (CCSB) of Public Works and Government Services Canada (PWGSC) between 1994 and 2001. We examined a risk-based sample of 34 advertising contracts. We examined three major advertising campaigns.

We conducted interviews with officials in PWGSC, the Treasury Board Secretariat, Communication Canada, and in departments. We conducted our work in the following departments and Crown corporations: Canada Information Office, Communication Canada, Public Works and Government Services Canada, Canada Customs and Revenue Agency, Canadian Heritage, Department of Finance Canada, Health Canada, Human Resources Development Canada, Justice Canada, National Defence, Privy Council Office, Canadian Tourism Commission, and Canada Mortgage and Housing Corporation.

Criteria

We expected that the government would do the following:

- comply with authorities;
- ensure that advertising activities were designed to achieve expected results;
- exercise due diligence in approving individual projects;
- ensure due diligence in spending and account for public funds spent;
- have reasonable assurance that funding was used for the intended purposes;
- appropriately manage the risks inherent in third-party delivery, where applicable;
- have a clearly communicated accountability framework in place, including performance management and reporting; and
- · conduct periodic review and appropriate follow-up.

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Chapter

5

Management of Public Opinion Research

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

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Management of Public Opinion Research

Main Points

- **5.1** We found that public opinion research activity was managed with a certain degree of transparency. For the most part, roles, responsibilities, and procedures were clear.
- 5.2 However, in some cases departments did not establish a clear statement of the need for undertaking public opinion research. In a small number of troubling cases, we noted that the government had failed to follow its own guidelines in effect at the time and had paid for syndicated research that monitored, among other things, voting behaviour and political party image.
- **5.3** Many departments subscribed to the same studies, and Communication Canada, the mandatory service provider, did not take advantage of savings opportunities by co-ordinating bulk purchases of syndicated surveys.
- 5.4 The common service agencies and departments need to improve their management practices to ensure that value for money is obtained in public opinion research activities.

The Privy Council Office, on behalf of the government, has responded. The entities we audited agree with the findings contained in chapters 3, 4 and 5. Our recommendations and the detailed responses appear in the Overall Main Points at the beginning of this booklet.

Introduction

Government's use of public opinion research

- 5.5 The guidelines to the Treasury Board's Policy on the Management of Government Information Holdings, in effect during the period covered by our audit, stated that the government had a responsibility to find out the concerns and views of Canadians in order to establish priorities, develop policies, and implement and monitor programs that serve Canadians. Public opinion research is a tool the government frequently uses to capture public awareness and concerns.
- 5.6 The federal government's public opinion research is the planned gathering of opinions, attitudes, perceptions, judgments, feelings, ideas, reactions, or views—information to be used for any government purposes. The information is collected from persons (including government employees), businesses, institutions, or other entities, using both quantitative and qualitative methods.
- 5.7 The Treasury Board's policies on contracting, common services, communications, and management of government information holdings apply to public opinion research activities. Public opinion research is a mandatory common service. This means that before entering into any contracts, departments must consult Communication Canada to determine whether the collection of the information they want qualifies as public opinion research.
- 5.8 The government's policy on communications requires departments to submit their public opinion research plans, strategies, and initiatives to Communication Canada as the technical and co-ordinating authority. Communication Canada provides advice to departments and agencies based on its reviews of proposed research projects. It assigns a project registration number that authorizes Public Works and Government Services Canada to contract for each public opinion research project on behalf of a department or agency. It does so through a competitive process, sole-sourcing, or call-ups from standing offers it has already established—the contracting method used in most cases.
- **5.9** Within three months of completing their projects, departments are required to send the research reports to Communication Canada for release to the public through the National Library and the Library of Parliament.
- 5.10 Federal spending on public opinion research. Communication Canada co-ordinated 576 public opinion research projects in 2002–03, at a total cost of \$23.7 million. The year before, it co-ordinated 686 projects totalling \$26.2 million. The departments or agencies that spent the most were Health Canada, Human Resources Development Canada, Natural Resources Canada, Industry Canada, and Communication Canada—which, like any other department, conducts its own research as well as co-ordinating public opinion research across departments and agencies.

- 5.11 Custom public opinion research is research commissioned from a private firm and tailored to fit specific research needs of the client department or agency. The government retains ownership of the intellectual property rights on all research and other materials generated by the research project. Thus, the results can be shared within and among departments or made public.
- 5.12 In contrast, research firms own the intellectual property rights on syndicated studies they conduct: multi-client, cost-shared, public opinion research studies. Departments that purchase subscriptions to these studies cannot share the results with other departments or make them available to the public. At an added cost, they can ask the supplier to add specific questions to a survey. Of the \$23.7 million the government spent on public opinion research in 2002–03, \$3.1 million was on syndicated studies.

Focus of the audit

- 5.13 Our objective was to determine whether the government had adequate controls over its public opinion research activities between 1999–2000 and 2002–03. We wanted to know whether, in contracting for public opinion research services, it obtained the best value for the Crown and followed a transparent process that gave equitable access to suppliers of public opinion research services.
- 5.14 We also wanted to determine whether departments designed their public opinion research activities to achieve specific results. Finally, we wanted to assess whether the systems and procedures in place allowed for a corporate approach to public opinion research and the co-ordination of research activities, as required by Treasury Board policies that applied in the period covered by our audit. Further details are found at the end of the Chapter in **About the Audit**.

Observations

Control over public opinion research

Activities were managed adequately

5.15 Based on our review of a sample of transactions and management practices, we found that the government managed its public opinion research activities adequately. The activities were centrally co-ordinated, as required by policies. Roles and responsibilities in the majority of activities were sufficiently clear; Communication Canada had issued an orientation guide outlining procedures for public opinion research and had developed a research guide to assist departments. In 2001–02, it published an annual report showing the number and value of government contracts awarded to each supplier.

Not all public opinion research reports were released to the public

5.16 For the most part, Communication Canada ensured that results of custom public opinion research were made public, as the government's policy

on communications requires. However, where departments delayed forwarding their final project reports to Communication Canada, results were not released within the required three months. Some results were not released at all. Communication Canada regularly tracked the reports that had not been released to the public. Despite its follow-up efforts, each year about 14 percent of custom surveys were not made public.

- 5.17 Communication Canada explained to us that it had been unable to release the results of a few research projects for the Department of Finance Canada because, according to the Department, it had received only verbal reports and had no written reports on these projects.
- **5.18** We also noted that in one case, the Canada Information Office had received and paid for a final research report but did not make it public. The research consisted of focus group discussions to investigate the results of the February 2000 survey, *Listening to Canadians*.

The government could not prepare a strategic plan for public opinion research

5.19 The public opinion research co-ordinator in each department has direct control over a portion of the department's budget for public opinion research. However, program managers can use their program funds and initiate research projects themselves. We found that while the departmental co-ordinators could provide advice, they did not have full information on the public opinion research carried out by their departments; therefore, the plans they provided to Communication Canada did not accurately reflect all research their departments would undertake. As a consequence, Communication Canada was not in a position to estimate the planned government-wide expenditures on public opinion research. The government never prepared the government-wide strategic plan for public opinion research called for in the guidelines to the Policy on the Management of Government Information Holdings.

Some project files did not clearly explain project objectives or rationale

- 5.20 The usefulness of public opinion research depends on how well the research results meet specific needs. We expected to find clear objectives for public opinion research projects and clear evidence demonstrating that the results were ultimately used. The policy guidelines in effect during the period covered by our audit stated that departments were to define the scope of their research requirements and determine that the need could not be met with information from existing studies. Under the present common service policy, Communication Canada is responsible for reviewing the research projects proposed by departments to confirm that they are consistent with government priorities.
- 5.21 According to Communication Canada's orientation guide, departments are to prepare a summary of a proposed project that clearly outlines the research objectives, collection methods, target audience, budget, deliverables, and a timetable. Most of the research project files we reviewed showed reasons for the research and suggested how the results might be used. For about 20 percent of the projects in our sample, however, departments did

not demonstrate why they needed the research or how they would use the results. Moreover, Communication Canada officials told us they do not believe they have a mandate to challenge the rationale for a proposed project or the clarity of its objectives.

- 5.22 A survey commissioned by the Canada Information Office and later by Communication Canada itself serves to illustrate. *Listening to Canadians* is a survey conducted three times a year to gauge Canadians' views about the government's performance on such public policy issues as health and the economy. Communication Canada spent about \$3 million on this survey between April 1998 and March 2003. It presented the survey results to departments and posted them on its Web site.
- 5.23 We expected Communication Canada's files on the survey to contain a clear statement of the need for and purpose of the survey as well as evidence showing how the results were used. We saw some indication that the Privy Council Office may have used the results to develop a government-wide advertising plan. However, the file documentation was largely incomplete, with little to show how Communication Canada had planned for the survey or determined its objectives. In contrast, public opinion research files in Human Resources Development Canada contained project summaries with detailed analyses of the research objectives and rationale.
- 5.24 We found no analysis in Communication Canada's files to support the need for carrying out the *Listening to Canadians* survey three times a year, and no evaluation of the survey's effectiveness over the last five years. Communication Canada's files did not demonstrate that the survey provided good value for the cost, as called for in policy guidelines.

Public funds were used to monitor voting behaviour and party image

- 5.25 The 1995 guidelines to the Policy on the Management of Government Information Holdings stated that "public funds should not be expended on Public Opinion Research concerned with monitoring voting behaviour or party image."
- 5.26 In May 2001, the Canada Information Office and the Intergovernmental Affairs Secretariat of the Privy Council Office paid a total of about \$150,000 to obtain a new syndicated survey that included questions about the voting intentions and images of provincial and federal party leaders, among other topics. The survey also asked about voting intentions in two provincial by-elections.
- 5.27 In 2002–03, Communication Canada, the Privy Council Office, and Canada Economic Development for Quebec Regions subscribed to the same syndicated study dealing, among other topics, with voting intentions and approval ratings of the provincial and federal party leaders. The three organizations shared the total cost of about \$158,000.
- 5.28 In 2002–03, the government subscribed to a syndicated survey whose questions covered many topics, including the approval ratings of the federal

and provincial party leaders. Communication Canada's records showed that eight departments purchased the survey at a cost of about \$21,000 each.

- **5.29** Under the common services policy, Communication Canada has a mandate to not only co-ordinate public opinion research activities but also advise and inform departments about effective practices and policies. We saw no evidence that Communication Canada took any steps to prevent or advise against the purchase of syndicated surveys that monitored, among other things, voting behaviour and party image.
- 5.30 A change in May 2003 to the Treasury Board Policy on the Management of Government Information Holdings deleted the guideline that prohibited political polling. However, Communication Canada's orientation guide still says, "Monitoring of electoral voting intention(s) or party image is not an activity that can be contracted using public funds." Communication Canada told us that in the absence of Treasury Board guidance, it expects departments to follow its orientation guide and not use public funds in this way. The Treasury Board Secretariat informed us that it will reissue this guidance as part of the guidelines to the Communications Policy.

Many departments purchased the same syndicated surveys

- **5.31** Communication Canada maximizes the cost effectiveness of public opinion research by co-ordinating the sharing of information and facilitating the pooling of resources for bulk rate reductions—for example, by purchasing core subscriptions to syndicated surveys, allowing for the information to be shared. We found that it had co-ordinated the negotiation of a reduced bulk rate for a small number of syndicated surveys, but not for most. A core subscription to *Rethinking Government*, for example, costs about \$27,000. We noted that 10 copies were purchased by departments in 2002–03 at a total cost of \$270,000.
- 5.32 As a result of the Treasury Board Secretariat's review of public opinion research in 2002, Communication Canada undertook a study of syndicated research (see the section Treasury Board Secretariat initiatives in Chapter 3 of our Report).

Contracting for public opinion research

Selecting suppliers of public opinion research services followed the rules

5.33 In 1997, when PWGSC created its Communications Coordination Services Branch (CCSB), both program co-ordination and contracting for public opinion research were part of its operations. Unlike advertising and sponsorship activities, where there was no segregation of duties, the program co-ordination and contracting activities for public opinion research were managed as two separate functions. In June 2000, program co-ordination was transferred to the Canada Information Office, but contracting for public opinion research remained with CCSB. In September 2001, Communication Canada took over program co-ordination from the Canada Information Office, and a procurement branch of the PWGSC took over contracting for public opinion research from CCSB.

- 5.34 We expected that CCSB and PWGSC would have contracted for public opinion research in accordance with the Treasury Board's contracting policy. The policy states that government contracting shall be conducted in a manner that will stand the test of public scrutiny in matters of prudence and probity; facilitate access; encourage competition; and reflect fairness in the spending of public funds. We also expected they would have followed the rules for standing offers and properly justified any use of sole-source contracts.
- 5.35 Our review of a sample of standing offers found that the competitive process had been followed in pre-qualifying suppliers. Requests for proposals were issued, and the selection process resulted in standing offer agreements with the successful bidders. We note that the vast majority of these suppliers were not the same as those providing sponsorship or advertising services. CCSB managed the selection process until August 2001, after which it was managed by a procurement branch of PWGSC together with Communication Canada.

Some departure from rules in managing standing offers and call-ups

- 5.36 Suppliers were chosen for a term of usually three to four years. At the time of our audit, 12 standing offers and one supply arrangement were in place. Each standing offer could have several suppliers who were qualified to provide the services required (a supplier could pre-qualify for more than one standing offer). Standing offers were established either for use by a specific department or for PWGSC, which made them available for use by all departments.
- 5.37 Although the period covered by a standing offer was specified in the statement of requirements, we observed that 4 of the 12 standing offers had been extended beyond the specified period. We found no rationale for extending the standing offers. We are concerned that the practice prevented other potential suppliers from competing for new work.
- 5.38 A call-up limit or threshold on the value of a job is a key element in managing the use of standing offers. PWGSC's guidelines state that each standing offer must have a specified call-up limit; we observed that 8 of 12 standing offers did not. Depending on the size of the project, the call-up limit provides an opportunity for competition because projects exceeding the threshold must be opened for bids. Without a call-up limit, the opportunity for competition is reduced.
- 5.39 Similarly, Appendix Q of the contracting policy required that on contracts over \$25,000, CCSB and PWGSC call for bids from the list of qualified suppliers. The policy stated, "If the contracting authority creates a pre-qualified suppliers' list for a particular type of service, the contracting authority must invite all qualified suppliers on the particular list to submit a proposal in connection with every procurement of that type of service." Instead, many large contracts were awarded to a single supplier based on one bid.
- 5.40 Some standing offers we examined had several pre-qualified suppliers listed for the same services. We saw no document showing the rationale for awarding a contract to any one supplier out of the several on the list. In October 2002, PWGSC introduced a policy that a system be in place to ensure that call-ups are awarded according to a predetermined criterion.

Conclusion

- 5.41 For the most part, we found that the federal government was managing public opinion research in a transparent manner and with adequate controls. The activities were centrally co-ordinated, as required by policies. Selection of suppliers for standing offers followed the competitive process. However, PWGSC needs to improve its management of standing offers and call-ups for public opinion research in order to be consistent with the rules in place.
- 5.42 We found that Communication Canada and departments did not always establish clear objectives for the results of public opinion research projects. We are also concerned about the use of public funds in some cases to acquire syndicated studies on voting intentions and party image. This was clearly in violation of the guidelines then in place.
- 5.43 Communication Canada needs to continue working with departments to make public more reports on custom public opinion research within the required timeframe.
- 5.44 Some changes are being made to public opinion research activities. In June 2003, the Minister of Public Works and Government Services announced changes to the Department's contracting process for public opinion research. PWGSC and Communication Canada are working to put in place new standing offers and supply arrangements. The new instruments are expected to have call-up limits and to promote competition among suppliers. We have not audited the new contracting process.

About the Audit

Our audit objectives were to determine

- · whether the government has exercised adequate control over its public opinion research activities,
- · whether the results of these activities have been measured and reported to Parliament, and
- · to what extent the government has taken corrective action as a result of previous audits or reviews.

Scope and approach

We examined the systems and practices used in managing public opinion research activities. We examined a risk-based sample of 30 public opinion research projects from 1999–2000 to 2002–03. We examined files in Communication Canada and in the Canada Information Office, Canadian Heritage, Health Canada, Human Resources Development Canada, National Defence, the Canada Customs and Revenue Agency, Department of Finance Canada, Public Works and Government Services Canada, and the Canadian Tourism Commission when it was part of Industry Canada. We conducted interviews with officials of the departments and of Communication Canada. We also examined a risk-based sample of standing offers and a supply arrangement.

Criteria

We expect that the government would do the following:

- · comply with authorities;
- ensure that public opinion research activities were designed to achieve expected results;
- exercise due diligence in approving individual projects;
- ensure due diligence in spending and account for public funds spent;
- have reasonable assurance that funding was used for the intended purposes;
- · appropriately manage the risks inherent in third-party delivery of services, where applicable;
- have a clearly communicated accountability framework in place, including performance management and reporting; and
- · conduct periodic review and appropriate follow-up.

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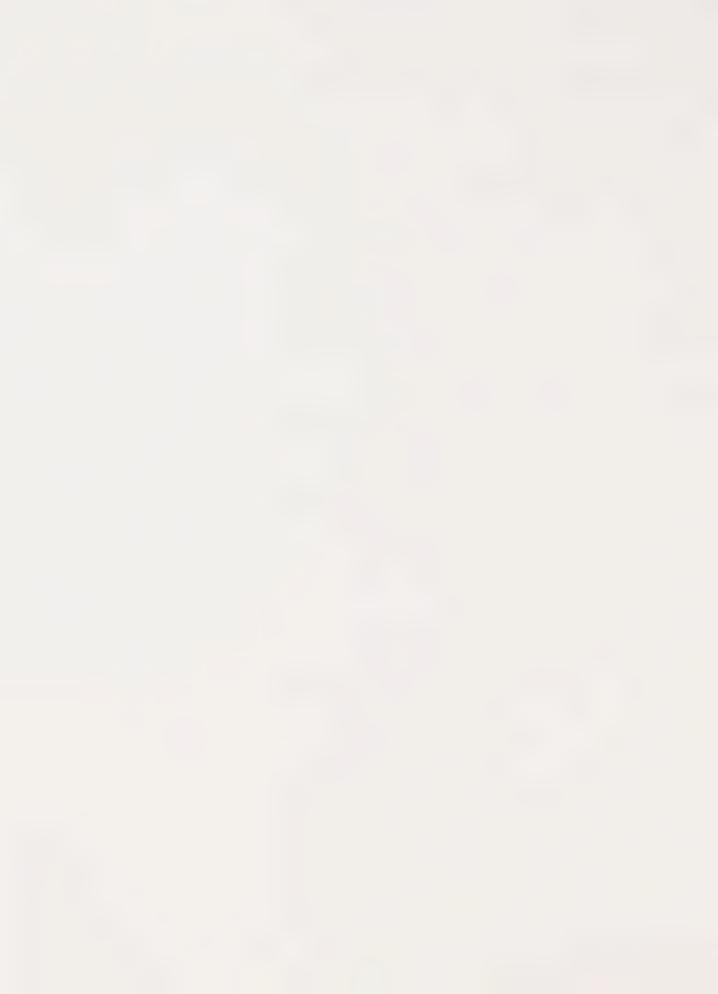
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Report of the Auditor General of Canada to the House of Commons

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Chapter 6
Protection of Cultural Heritage in the Federal Government

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Report of the Auditor General of Canada

to the House of Commons

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Chapter 6
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Chapter

6

Protection of Cultural Heritage in the Federal Government



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Protection of Cultural Heritage in the Federal Government

Main Points

- **6.1** Built, archival, and published heritage under the auspices of the federal government is exposed to serious risks of losses. This is because of deficiencies in various protection regimes, weaknesses in management procedures, and the combined effect of a decrease in protection expenditures and continued growth in heritage.
 - Built heritage is threatened. Many of the national historic sites administered by the Parks Canada Agency are showing signs of deterioration. This issue will have to be addressed in the next two to five years to prevent the permanent loss of elements that show the sites' historical significance, closure to the public, or rapid deterioration of the sites.
 - Archival heritage is at risk because federal departments have given little
 attention to information management in recent years. In addition, the
 National Archives of Canada has not yet succeeded in developing the
 tools needed to efficiently acquire government documents that may be
 of historic interest and archival importance.
 - Published heritage is at risk because the collections of the National Library of Canada are housed in buildings that do not meet accepted standards for temperature, humidity, and space for these types of documents. The Library's conservation practices cannot make up for the shortcomings of the physical infrastructure.
- 6.2 Parliament does not obtain complete, overall information on cultural heritage protection. The Department of Canadian Heritage and other heritage organizations' reports provide data on the condition of heritage and the possible risks and challenges. However, in general they do not contain information on the extent and the long-term implications of conservation problems and their meaning for Canadians. Moreover, these reports do not provide specific information on expected conservation results or those achieved.
- 6.3 The current protection regimes have reached their limits. The federal government needs to review the orientations and the means of protection needed and the role and responsibilities of the Department of Canadian Heritage and the other key heritage organizations in protecting cultural heritage. This review must take into account the current condition of heritage, its continual growth, the resources available, and the increased public interest in heritage issues. It should also aim to make federal parties that play a role in the protection of cultural heritage accountable.

Background and other observations

- 6.4 Cultural heritage means the tangible evidence of human experience, such as artifacts, archives, and printed material, and intangible evidence such as folklore, language, customs, traditions, and know-how. Protecting federal heritage assets requires the involvement of a number of parties. The Department of Canadian Heritage is responsible for developing policies governing heritage issues. Agencies within the Canadian Heritage portfolio, including the Parks Canada Agency, Canada's four national museums and their affiliated museums, the National Archives of Canada, and the National Library of Canada, have specific mandates for the protection of federal heritage. Several departments and other federal organizations also have protection responsibilities.
- 6.5 Our examination focussed on the areas that presented the most risk to the protection of cultural heritage: selection and conservation of national historic sites and federal heritage buildings, acquisition of federal archives, conservation of the collections of the National Library of Canada, identification of collections of federal government organizations, and identification of Canadian cultural property. We excluded the four national museums of Canada and affiliated museums from the scope of our audit. As Crown corporations, they are subject, every five years, to special examinations as set out in the *Financial Administration Act*. During the latest round of special examinations, which we undertook between 1998 and 2002, we examined whether the national museums had implemented systems and practices that enable them to protect specimen and artefact collections.

The federal organizations have responded. The Department of Canadian Heritage, the Parks Canada Agency, the National Archives of Canada, the National Library of Canada, and the Treasury Board Secretariat have agreed to our recommendations. Measures underway or planned are indicated in their responses. The departments and agencies have stated that they will co-operate with their partners to implement our recommendations and improve the protection of cultural heritage.

2

Introduction

Tangible cultural heritage

- 6.6 Cultural heritage means the tangible evidence of human experience, such as artifacts, archives, printed material, cultural products, architectural heritage, sacred sites, and archaeology. For some, this brings to mind old historic buildings; for others, it means visits to museums exhibiting artifacts from Canada and around the world. Cultural heritage also refers to intangible evidence such as folklore, language, customs, traditions, and know-how. These may be invisible, but they are very much alive. Exhibit 6.1 summarizes the key elements of tangible cultural heritage under the auspices of the federal government that we examined.
- 6.7 Cultural heritage is increasingly considered not only an asset to be protected and valued but also a means of promoting and reinforcing the cultural identity and cohesion of society. For a long time, heritage has not been protected for the sake of protection only. It is protected so that it may be valued, passed on, and made accessible to future generations. The public is interested in heritage in different ways and for different reasons: for some, heritage is a way to learn about Canada's past; for others, it is the purpose of a trip or a visit; for yet others, it represents employment. Most believe that heritage contributes to the quality of life of Canadians.
- 6.8 The importance that the public attributes to heritage can be seen in a number of ways. Every year, the Parks Canada Agency welcomes 25 million visitors to its parks and national historic sites. The National Archives of Canada responds to more than 120,000 queries of all kinds, including a large number related to genealogy alone. The National Archives' and the National Library's Web sites are consulted annually more than 14 million times.

Exhibit 6.1 Key elements of tangible cultural heritage in the federal government

Built heritage	Archival heritage	Published heritage	Movable heritage
891 national historic sites 269 classified federal heritage buildings 1,088 recognized federal heritage buildings	110,660 linear metres of government textual records 44,826 linear metres of private textual records 343,030 works of art 343,809 hours of audiovisual records (including sound, video, and film) 21,327,956 photographic images 3,180,000 megabytes of electronic records	Nearly 12 million printed documents Nearly 7 million microform documents and other non-print documents (audio visual, sound recordings, electronic records, etc.)	Various collections of objects and artifacts of potential heritage value found in federa departments and agencies.

Source: Department of Canadian Heritage and federal heritage organizations

Protection of tangible heritage

- The Government of Canada's interest in heritage goes back more than a century—in some cases, to the pre-Confederation era. During that period, the federal government created a number of organizations whose mandate is to safeguard nationally significant Canadian heritage: the National Museum of Canada was founded in 1842, the Library of Parliament in 1859, the National Archives of Canada in 1872, the National Gallery of Canada in 1880, the Canadian Parks Service (today the Parks Canada Agency) in 1911, the Historic Sites and Monuments Board of Canada in 1919, and the National Library of Canada in 1953. The government reaffirmed its commitment to heritage in 1976, when it ratified the Convention for the Protection of the World Cultural and Natural Heritage established by UNESCO. It also ratified, in 1978, the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.
- The federal government made major investments in infrastructure for the protection of cultural heritage in the 1980s and the 1990s. It built new facilities for the National Gallery of Canada, the Canadian Museum of Nature, the Canadian Museum of Civilization, the Canada Aviation Museum, and the National Archives Preservation Centre in Gatineau. More recently, the government initiated a major program to restore the Parliament buildings, which will take place over several years. In 2002, it began construction of the new Canadian War Museum and renovation of the former United States Embassy to house the new Portrait Gallery of Canada. It recently announced the creation of the Canada History Centre.
- Two activities are key to protecting cultural heritage. The first, known as identification and selection, involves determining what merits conservation—that is, the heritage value of sites, events, objects, and documents. This activity is based on knowledge of our history and includes strategies, plans, selection criteria, and registration and documentation activities. The other activity, known as conservation, involves maintaining, preserving, and restoring the selected cultural heritage when needed. It is based on knowledge of the nature and condition of cultural heritage, a legal protection framework, overall planning, and the application of recognized conservation standards, including adequate facilities and monitoring of future activity. Poor management of these two activities may mean that the selected heritage is not represented, that far too many objects to be conserved are accumulated, that heritage elements deteriorate or are lost, and that ultimately reference to our history is lost.
- Protecting federal heritage assets requires the involvement of a number of parties. The Department of Canadian Heritage is responsible for developing policies governing heritage issues. Agencies within the Canadian Heritage portfolio, including the Parks Canada Agency, Canada's four national museums and their affiliated museums, the National Archives of Canada, and the National Library of Canada, have specific mandates for the protection of federal heritage. Several departments, agencies, and Crown

corporations are responsible for protecting national historic sites, federal heritage buildings, archives, and artifacts of all kinds. Public Works and Government Services Canada manages buildings that house cultural heritage collections. The Appendix summarizes the main responsibilities of each of the main players in heritage protection.

6.13 In recent years, the federal government has focussed on making heritage assets accessible through new information technology. More recently, the government tabled a bill to create a new institution, Library and Archives Canada, which will bring together the collections and expertise of the National Library of Canada and the National Archives of Canada. It is currently preparing a bill to bolster the protection of historic places. The Department of Canadian Heritage has set as objectives to develop Canadian communities' capacity for heritage protection and to promote wider use of partnerships for heritage protection.

Trends in the protection of tangible heritage

- 6.14 The growth of heritage assets and the financial resources available for their protection are two key factors that influence the protection of cultural heritage. Heritage accumulates naturally, but this growth has tended to accelerate in recent years because of, among other things, aging of buildings, increased government activities, increased published materials, and a broadened view of the concept of heritage. Previously, the concept of heritage was limited to architectural and archaeological heritage and to movable objects. This concept gradually expanded over time and now includes cultural landscapes, historic districts, buried remains, and other intangible elements such as language, customs, and folklore. This broadening of the concept of heritage has helped to situate heritage in its context much better and thus place greater emphasis on its importance. However, this in turn has increased the number of heritage elements needing protection, and thereby increased the demand for resources for protection activities.
- 6.15 As with other sectors of the federal government, cultural heritage has suffered from the budget cuts of the last decade. Statistics Canada data show that the 2000–01 expenditures of \$508 million on cultural heritage were slightly below those of 1990–91, following a significant drop in the middle of the last decade. These expenditures, when expressed in 1990–91 constant dollars, show a decline of 17 percent. Exhibit 6.2 illustrates the trends in expenditures.

Focus of the audit

- 6.16 The focus of our audit was to determine whether the Department of Canadian Heritage and the other main federal organizations, other than Canada's four national museums and their associate museums, working to protect tangible cultural heritage have implemented protection mechanisms that allow them to
 - know the nature and condition of heritage;

(\$ millions) - Current dollars 1992 93 1993 -94 1994-95 1995-96 1996-97 1997-98 1998 99

Exhibit 6.2 Total federal government expenditures in the cultural heritage sector

Note: Actual expenditures were calculated with the implicit price index, gross domestic product, current government expenditures

- identify and select the built, archival, and movable heritage that merits protection;
- · preserve built and published heritage; and
- · account for the results achieved in the protection of tangible cultural heritage.

Our examination focussed on the areas that presented the most risk to the protection of cultural heritage: selection and conservation of national historic sites and federal heritage buildings, acquisition of federal archives, conservation of the collections of the National Library of Canada, identification of collections of federal government organizations, and identification of Canadian cultural property. We excluded the four national museums of Canada and affiliated museums from the scope of our audit. As Crown corporations, they are subject, every five years, to special examinations as set out in the Financial Administration Act. During the latest round of special examinations, which we undertook between 1998 and 2002, we examined whether the national museums had implemented systems and practices that enable them to protect specimen and artifact collections.

The audit was conducted in the following federal organizations:

- Parks Canada Agency
- National Archives of Canada
- National Library of Canada
- Department of Canadian Heritage
- Secretariat of Historic Sites and Monuments Board of Canada
- Secretariat of the Canadian Cultural Property Export Review Board

- · Federal Heritage Buildings Review Office
- Treasury Board Secretariat
- · Other departments that own collections

Further details on our audit can be found at the end of the chapter in About the Audit.

Observations and Recommendations

Built heritage

- **6.18** Built heritage includes sites, buildings, and monuments recognized for their historic value. These may include, for example, a building, battlefield, fort or citadel, shipwreck, archaeological site, cultural landscape, bridge, house, funeral site, railway station, historic district, ruins, engineering marvel, school, canal, courthouse, theatre, or market. Canada's national historic sites and federal heritage buildings represent such sites, buildings, and monuments.
- 6.19 The value of built heritage comes from what it can teach us about the lives and history of those who built this country. It comprises learning sites for all Canadians, be they young or old, recent immigrants to Canada, or long-time residents. It is also a source of tourist revenue for communities and helps to preserve the environment by capitalizing on existing structures.
- 6.20 The Government of Canada is involved in protecting built heritage through the recognition and commemoration of nationally significant historic sites, the designation of federal heritage buildings, and the administration of a number of historic sites and heritage buildings. At 31 March 2003, it had designated 891 national historic sites and classified 269 buildings as federal heritage buildings. It had also recognized 1,088 other federal buildings as having certain heritage characteristics, without designating them as classified buildings. Classified buildings have a relatively high heritage value. In principle, they benefit from a greater level of protection than recognized buildings. These national historic sites and heritage buildings are located in more than 400 communities across Canada.
- **6.21** Protecting built heritage requires the involvement of several stakeholders:
 - The Parks Canada Agency has important responsibilities in implementing the federal government's policy on built heritage. It owns 148 of the 891 national historic sites and 516 of the 1,357 classified and recognized heritage buildings. It also supports the designation work of the Historic Sites and Monuments Board of Canada and the Federal Heritage Building Committee. The Agency has a mandate to protect all elements of heritage that it owns. Its mandate also extends to providing help for protection and valuing activities to other owners of national historic sites.
 - Nineteen other federal departments and agencies own 55 national historic sites and 841 federal heritage buildings.

- The Treasury Board Secretariat is responsible for the Heritage Building
- The Historic Sites and Monuments Board of Canada has a mandate to recommend the designation of national historic sites to the Minister of Canadian Heritage.
- The Federal Heritage Building Committee has a mandate to recommend the designation of federal heritage buildings to the Minister of Canadian
- Provincial governments, not-for-profit associations, the private sector, and individuals also own national historic sites.
- The Parks Canada Agency has developed a management system based on maintaining the commemorative integrity of the sites and on recognized standards of conservation. The concept of commemorative integrity, developed in the 1990s, describes the state and overall character of a national historic site. A national historic site possesses commemorative integrity when the resources that symbolize or represent its historic significance are not impaired or under threat, the reasons for its historic significance are effectively communicated to the public, and the decisions and interventions regarding the site respect its heritage values. The Agency determines whether commemorative integrity exists at a specific national historic site by assessing the condition of resources, the effectiveness of communications, and site management practices.
- The management infrastructure of the Agency includes the following planning and monitoring tools: commemorative integrity statements, management plans, annual business plans, and commemorative integrity evaluations. According to its legislation, the Agency must prepare, every five years, for each site it administers, a management plan based on a commemorative integrity statement. This plan describes the major directions that the Agency expects to follow over the next few years in protection and valuing activities of the sites. Each of the Agency's 32 management units prepares an annual business plan to ensure that the directions contained in the management plan are implemented. The Agency has an objective to evaluate the commemorative integrity of each of its historic sites once every 10 years.

National historic sites in poor condition

- Knowledge of the nature and condition of built heritage is key to sound management of conservation efforts for this type of heritage. It allows us to identify the most deteriorated elements of heritage, define conservation priorities, determine needed action, and allocate appropriate resources.
- We found that the Parks Canada Agency has reasonably reliable inventory listings and information systems on the nature of all national historic sites and on the condition of the 148 national historic sites it administers. The inventory listings on the nature of the sites include information on the type of buildings and their location, as well as the reasons for their designation. The inventory data stem from research that the Agency



Important conservation work is required to

Source: The Parks Canada Agency

conducts to support the Historic Sites and Monuments Board of Canada as it reviews nominations for designation as a national historic site.

- 6.26 The commemorative integrity evaluations contain data on the condition of cultural resources of historic sites. At 31 March 2003, the Parks Canada Agency had evaluated 43 of the 148 historic sites it administers. Sixteen percent of the 43 national historic sites evaluated will need preservation work within the next two years; without such intervention, they will risk either permanently losing elements that show their historic significance or being closed to the public. Fifty-six percent of the sites are showing signs of deterioration and will need protection work within the next three to five years, or they risk rapid deterioration. Exhibit 6.3 shows the condition of the 18 sites evaluated in 2002–03.
- 6.27 Under Treasury Board real property policies, departments are required to systematically assess the condition of the real property in their inventory and use this information to manage the sites. However, we found that there are no consolidated data on the condition of the 55 national historic sites administered by the other federal departments and agencies.

Exhibit 6.3 Condition of the national historic sites evaluated in 2002-03

Ratings	National historic site and province
Poor	Battle of the Windmill (Ontario)
(seriously impaired)	Carillon Canal (Quebec)
	Cathcart Tower (Ontario)
	Fort Henry (Ontario)
	Twin Falls Tea House (British Columbia)
Fair	Alexander Graham Bell (Nova Scotia)
(minor to moderate impairment)	Cave and Basin (Alberta)
	Fort Espérance (Saskatchewan)
	Fort Livingstone (Saskatchewan)
	Fort Pelly (Saskatchewan)
	Port-la-Joye-Fort Amherst (Prince Edward Island)
	Rogers Pass (British Columbia)
	Sault Ste. Marie Canal (Ontario)
	York Factory (Manitoba)
Good	Battle of the Châteauguay (Quebec)
(not impaired)	L'Anse aux Meadows (Newfoundland and Labrador)
	Murney Tower (Ontario)
	Shoal Tower (Ontario)

Source: Parks Canada Agency

6.28 There is also no information on the condition of the 688 national historic sites administered by third parties (other levels of government, private sector, volunteer sector, and individuals). However, we noted, as an indication of the condition of these sites, that the owners of 118 of these 688 national historic sites filed requests for financial aid under the National Historic Sites of Canada Cost-Sharing Program to begin work to preserve and/or value their historic sites. Sixty-three of those requests, valued at a total of about \$30 million, were endorsed by the Historic Sites and Monuments Board but have yet to be fulfilled.

Insufficient means of conservation for historic sites

- 6.29 Delay in implementing management infrastructure. The Parks Canada Agency's implementation of a management infrastructure progressed more slowly than was expected when the Agency was created in 1998. At the time of our audit, the Agency had completed only 17 management plans representing 22 national historic sites. According to its legislation, the Agency should have had such a plan for each of the national historic sites it has owned for at least five years. However, it had prepared commemorative integrity statements for 84 percent of the national historic sites it administers and expected to complete the remainder in 2005. It has completed 43 commemorative integrity evaluations in accordance with its goal of completing 15 per year. There is still a lot to do to complete the implementation of this management scheme. The Agency is aware of the delay and is working to find a solution.
- 6.30 We noted that the *Parks Canada Agency Act* does not require that other federal departments and agencies that own national historic sites produce management plans similar to those prepared by the Agency. Further, these other departments and agencies are not required to apply accepted conservation standards used by the Parks Canada Agency. In September 2003, the federal government had finalized conservation standards that will apply to its entire built heritage.
- Gaps between available funding and conservation needs. Statistics Canada data on federal spending on historic parks and sites and other heritage resources (Exhibit 6.4) show that federal departments and agencies spent about \$228 million in 2000–01—\$14 million less than in 1990–91 (a decrease of 6 percent). In constant 1990–91 dollars, this equates to a decrease of 22 percent, the inflation having reduced the value of the expenses by an additional 16 percent. This decline in spending has contributed to reducing the protection capacity for cultural heritage. The additional funds that the federal government has recently allotted to arts and culture will not significantly increase the protection capacity because they primarily address the valuing activities of heritage and not its protection.
- 6.32 Conservation needs have increased rapidly. As we have indicated, several national historic sites administered by the Parks Canada Agency needed conservation measures. As well, other Agency studies show that about 20 percent of all built cultural resources located on national historic sites and in national parks are in poor condition and need preservation work

within the next two years. Another 40 percent are in fair condition and need preservation work within the next three to five years. These built cultural resources include buildings, bridges, fortifications, maritime structures, or lands. According to the Agency, the protection of national historic sites would require doubling the amount of spending on these capital assets.

6.33 Need to reinforce the legal protection framework. Except for national historic sites administered by the Parks Canada Agency, there is no legal protection for the national historic sites administered by other federal departments and organizations. As well, the designation of a national historic site held by third parties (individuals, private and not-for-profit sectors, other levels of government) does not impose any restriction, other than moral, on the disposal of such a site. The federal designation, therefore, has no bearing on the designated historic site. However, we noted that certain national historic sites owned by third parties are also classified under provincial and territorial legislation. When this is the case, they benefit from legal protection.

Deteriorating federal heritage buildings

- 6.34 The Government of Canada has a policy to protect the heritage value of federal buildings in all of its purchasing, operating, and disposal activities. It created the Federal Heritage Buildings Review Office to systematically assess the heritage value of its buildings over 40 years of age and to provide departments and agencies with advice on protection, as requested. The Parks Canada Agency provides secretarial and support services to the Review Office.
- 6.35 Five departments and agencies own the majority of the federal heritage buildings. The Parks Canada Agency administers 516 federal heritage buildings. The Agency's Cultural Resource Management policy requires that it inspect and evaluate the condition of these buildings and identify the necessary work for their conservation. Other departments and agencies

Exhibit 6.4 Federal government expenditures devoted to the cultural heritage sectors, 1990-91 to 2000-01 (\$ millions)

Heritage sector	199091	199596	1999-2000	2000-01
Libraries	39.7	36.9	36.8	39.9
Public archives	66.2	59.7	49.8	53.4
Historic parks and sites	77.2	80.41	66.4 ¹	63.9
Other heritage resources ²	165.1	106.4	168.2	164.6
Museums	160.7	165.2	159.4	186.0
Total	\$508.9	\$448.6	\$480.6	\$507.8

¹ Amount revised

Source: Statistics Canada

Includes all expenses associated with the management of programs to preserve, protect, investigate, and interpret archaeological sites, as well as expenses associated with restoring historical buildings or structures of archaeological significance. Also included are other heritage activities not defined above.

manage their federal heritage buildings according to their primary mandate and their priorities. According to the Parks Canada Agency, about 100 buildings belonging to other departments and agencies were either sold or destroyed during the last few years.

- 6.36 The Review Office has a reasonably reliable inventory of the federal government's 1,357 federal heritage buildings. This inventory includes data on the type of buildings and their location, as well as the reasons for their designation. However, the Review Office has only general information on the condition of the federal heritage buildings. According to a survey done in February 2000, the 13 major departments and agencies owning heritage buildings estimated that more than two thirds of the federal heritage buildings are in fair to poor condition. The Parks Canada Agency has reported that slightly less than two thirds of its federal heritage buildings are in fair to poor condition.
- 6.37 Those federal heritage buildings administered by the Parks Canada Agency benefit from legal protection because protecting heritage is an integral part of the Agency's mandate. However, those administered by other departments and agencies do not necessarily benefit from such protection since their owners do not always have a legal mandate to protect heritage. Furthermore, we noted that federal departments and agencies are not subject to the same conservation standards and accountability requirements as the Parks Canada Agency.

Re-examining choices

- 6.38 The list of historic sites and federal heritage buildings contains many similar sites or buildings. For example, the list contains more than 60 armouries, 100 lighthouses, and more than 40 buildings described as "a federal building", such as old post offices. We examined the selection processes for built heritage adopted by the Historic Sites and Monuments Board and the Federal Heritage Building Committee. We noted that the selection of historic sites and the designation of federal heritage offices were based on recognized selection criteria and in-depth research.
- 6.39 We found that the designation of a historic site had been revoked only after the loss or destruction of elements that show the sites' historical significance. In a context of continual growth of heritage, limited resources, development of protection capacities of communities, wider use of partnerships, and advances in historical knowledge, the option of re-examining the reasons for the designations could be considered.
- 6.40 In summary, three factors reduce the possibility of protection for built heritage: the deteriorating condition of built heritage, the decline in federal heritage expenditures over the last few years, and the expected growth in the number of national historic sites and federal heritage buildings. The risk of loss or damage caused to national historic sites and to federal heritage buildings will increase. Thus, future generations may not have access to key heritage components or will have to bear higher costs to preserve their heritage.

Did you know?

The Parks Canada Agency receives more than 2,200 inquiries each year about possible designations of national historic sites. Almost 95 percent of the proposals considered by the Historic Sites and Monuments Board of Canada are nominated by the public.

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6.41 Recommendation. The Department of Canadian Heritage, in collaboration with the Parks Canada Agency, should continue its efforts to strengthen the legal framework to protect built heritage.

Response from the Department of Canadian Heritage and the Parks Canada Agency. The Department of Canadian Heritage and the Parks Canada Agency agree with this recommendation and will continue to actively collaborate to develop legislative proposals to protect built heritage, in keeping with discussion papers published in 2002. These proposals include statutory protection of national historic sites and federal heritage buildings, protection of archaeological resources on federal lands, and application of standards for heritage conservation for historic places in Canada. Extensive consultations on these proposals have taken place with stakeholders.

Recommendation. The Parks Canada Agency should implement its management structure for national historic sites as soon as possible.

The Parks Canada Agency's response. The Parks Canada Agency is aware of the delays in implementing some aspects of its management structure for national historic sites. The Agency has committed to completing the development of management plans for all the national historic sites it administers by March 2006. The Agency is working to update information on the condition of cultural resources and is on schedule to assess, over a 10-year period, the commemorative integrity of all the national historic sites it administers. The Agency's ability to improve the timeliness of reporting on the condition of cultural resources is limited given current funding levels.

6.43 Recommendation. The Treasury Board Secretariat, in collaboration with the Department of Canadian Heritage, should specify information requirements on the condition of built heritage and on the performance of protection activities. The Secretariat should require that federal departments that own national historic sites and federal heritage buildings provide this information on a periodical basis.

The Treasury Board Secretariat's response. We agree that there is no centralized inventory containing detailed information about the condition of federal heritage buildings and national historic sites that are administered by federal custodians other than the Parks Canada Agency and the Department of Canadian Heritage (DCH). The Treasury Board Secretariat will examine, with the DCH and the Parks Canada Agency, what type of information they collect about the condition of federal heritage buildings and national historic sites under their administration, how this information is used, and how results of protection activities are measured. We will also discuss with the DCH the Office of the Auditor General's recommendation that custodians provide periodic reports on the condition of heritage buildings and national historic sites.

The Department of Canadian Heritage's response. The Department of Canadian Heritage agrees that there is no consolidated data on the condition of national historic sites and federal heritage buildings administered by federal departments other than the Parks Canada Agency, but it notes that current

Treasury Board policies require departments to systematically assess the condition of the real property in their inventory. In the context of legislative proposals referenced in 6.41, the Department of Canadian Heritage and the Parks Canada Agency will work with the Treasury Board Secretariat to define what type of information should be collected and how the condition and protection of built heritage would most appropriately be assessed and reported.

Published heritage

Did you know?

The National Library of Canada owns the largest and most comprehensive collection of federal, provincial, and territorial official publications published since 1867.



Emergency measure taken following a water leak at the National Library of Canada.

6.44 The primary role of the National Library of Canada is to acquire, conserve, and promote the published heritage for Canadians. The Library believes that it owns the largest collection of Canadian publications in the world and is thereby one of the most important reference centres on Canadian studies. In addition, it plays a role in developing collections and documentary services across the country and in pooling the resources of Canadian libraries.

6.45 The National Library has a collection of more than 19.5 million publications, including books, journals, CD-ROMs, microforms, sound recordings, software, and electronic documents. It acquires its publications primarily through legal deposit, a mechanism created by the *National Library Act* requiring that Canadian publishers provide the Library with two copies of every new publication (one copy for conservation and one for access services). The National Library's collections have grown from 13.3 million to 19.5 million documents since 1991, with an average growth rate of 3.5 percent per year.

Collections housed in poor-quality facilities

Appropriate collection facilities with stable temperatures and humidity levels are the most important factor in ensuring long-term access and preservation of collection materials. The National Library of Canada preserves most of its collections in five buildings owned or rented by Public Works and Government Services Canada. These buildings do not meet the standards for temperature and humidity for conserving documents. This is a constant threat to their preservation. In the current environment where the collections reside and continue to suffer damage, there is lack of air circulation, extreme fluctuations in temperature and relative humidity, and overloaded shelves in poor condition. The National Library does not regularly monitor fluctuations in temperature and relative humidity. Such information is essential to document the impact of these environmental conditions on the expected life of its collections.

6.47 Since 1988, the Library has experienced 116 environmental incidents. About 60 of these—floods and excessive heat—damaged a total of about 30,000 documents in the Library's various collections, including official publications from Statistics Canada, provincial government periodicals, and pre-1867 foreign publications about Canada received from the Library of Parliament. The Library estimated the minimum cost of repairing or replacing



Newspapers folded, rather than stored flat in appropriate boxes, are deteriorating rapidly at the National Library.

Source: The National Library of Canada

Did you know?

The public can access the numerous collections of the National Library of Canada through municipal, provincial, and university libraries that participate in the interlibrary loan network.

the damaged documents at \$4.5 million. It does not know the exact number of documents irretrievably lost.

- 6.48 Insufficient space increases the risk of deterioration of collections. The access collections of the National Library are overcrowded and take up about 90 percent of the available shelf space. The standard is 75 percent for access collections. This high rate of occupation means that huge numbers of documents are continually being moved about, which is damaging to the collections, particularly fragile documents. The Library currently uses 23,000 square metres of space; it estimates that it requires an additional 5,000 square metres of space to rectify this situation. In this regard, the National Library is discussing its needs with Public Works and Government Services Canada in order to submit a request for temporary facilities to the Treasury Board of Canada Secretariat. The Library estimates that it will need an additional 17,000 square metres of space by 2015.
- 6.49 The poor quality of the facilities is having an impact on the National Library's newspaper collection and non-print collections in particular. Newspaper material is more fragile than that of other paper collections. According to an internal study conducted in 1999, the newspaper collection is deteriorating very rapidly. The deterioration is to the point that the study recommended freezing part of the collection pending conservation treatment. Due to a lack of space, the National Library keeps the newspapers folded, rather than storing them flat in appropriate boxes according to generally recognized conservation standards. Folds weaken the paper and increase the risk of tears. According to the study, under the current conditions, the expected lifetime of new acquisitions in the newspaper collection is very limited compared with what it should be under appropriate conditions.
- 6.50 Collections of unprinted documents, such as microfilms, sound recordings, videos, electronic documents, and CD-ROMs, already represent 37 percent of the collections, and their number is growing rapidly. These collections are at even greater risk than books because the media are less durable and need to be updated frequently due to the rapid evolution of new information technologies. Each non-print medium requires specific environmental conditions that the Library cannot systematically offer. If measures of conservation are not taken, the risk of loss increases. This situation is of even greater concern because in the future these collections will become increasingly important and cost the most to preserve.

Limited preservation capacity

- **6.51** Certain measures contribute to preventing the deterioration of the collections: limiting access and applying the necessary treatments adapted to the particular medium. However, we noted the Library's limited capability to carry out these measures because of a lack of space, financial resources, or internal expertise.
- 6.52 Inability to create a preservation collection. A good preservation practice currently used by libraries consists of creating what is known as a "preservation collection." The National Library of Canada adopted this

measure in 1988. Since then, the Library has put aside one of the two published copies it receives under the terms of the legal deposit. The Library has also put aside one copy of documents dating before 1988 but obtained since that time. The purpose of this measure is to protect the collection by limiting public access and storing it in a separate area with a controlled atmosphere. The entire preservation collection now includes more than 2.3 million publications. Since 2001, the Library has conserved 26 percent of this collection in conditions that comply with environmental standards: these 600,000 documents are located inside four vaults that the National Archives of Canada has loaned to the Library. The Library is keeping the majority of its rare book collection in one of the most secure places in its main building; however, that location does not meet the environmental standards for conservation.

- In brief, despite its efforts, the National Library has been able to adequately protect only a very limited number of documents belonging to its collections in facilities that meet preservation standards. Under the current circumstances, the Library cannot hope to achieve the objective of building a preservation collection that is complete and preserved under conditions that meet the standards.
- Significant delays in conservation treatments of documents. Like other similar libraries, the collections of the National Library of Canada are also threatened by the acidification of paper format publications. This phenomenon weakens a document's format and shortens its lifetime. From 1981 to 2001, the Library succeeded in treating nearly one million contaminated documents, but about two million documents remain to be treated. Given its small treatment capacity, the Library cannot foresee the day when it will have treated its entire backlog of documents needing deacidification. We would have expected the Library to set priorities for treatment based on the risk of loss of documents; however, it has not done so.
- In 1989, the Library noted that more than six million documents needed treatments other than deacidification. Since that time, the Library has reduced the backlog by only a few hundred thousand documents. Internally, the Library does not have sufficient specialized competencies for managing the preservation function or for carrying out specialized treatments. Its capabilities are limited to simpler work. For more demanding restoration treatments, it has turned to the specialized services of the National Archives of Canada for the past several years. However, due to other priorities, the National Archives has been able to accommodate only one half of the National Library's requests for preservation treatments over the last few years.

The need for a more strategic management approach

For the past three years, the Library has considered the preservation of its collections one of its priorities and undertaken a number of related activities. We expected that it would have a strategic plan to guide its preservation decisions. In a context of growing collections, limited resources, and obsolete infrastructure, a strategic plan would enable the Library to

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better evaluate and explain its strategic preservation choices and the affiliated costs. The strategic plan should take into account the actual condition of the collections as well as the risks of deterioration or loss, estimated growth rate of the various collections, preservation and restoration costs, and the capacities and weaknesses of the facilities.

- 6.57 For several years, the Library has sought to obtain more modern facilities for its collections. On a number of occasions, it has communicated its needs to central agencies and has made public statements on its concerns about the existing facilities. However, the Library has not developed any alternative preservation strategies in case the approval of a new building is not forthcoming. Nor has it developed a set of preservation priorities. The actual condition of the facilities suggests that the Library's management decisions have often been dictated by the necessity of responding to the most urgent space requirements.
- 6.58 The Library completed a survey on the state of its collections in 1989. Between 1997 and 2001, it developed conservation plans for each of its collections. However, it has not succeeded in implementing most of the recommendations contained in those plans because the implementation was based on having adequate facilities.
- 6.59 The National Library of Canada has a great deal of information to help manage its collections in a more comprehensive, strategic manner. It has exhaustive inventories of its collections (printed materials, journals, microforms, audio, video, and electronic publications). The AMICUS catalogue provides complete, up-to-date information on the nature, location, and age of the records registered in the Library's collections. However, the Library does not capture detailed data on the condition of its collections. Nor has it done a risk analysis to develop a coherent preservation strategy.
- 6.60 The National Library is aware of these weaknesses. Together with the National Archives of Canada, it has posted a request for proposal for a risk analysis of its collections to be completed by November 2003. It intends to use the risk analysis to develop a strategic preservation plan.
- 6.61 In summary, the poor quality of the facilities seriously impedes the Library's ability to preserve its collections. The Library needs to complete its analyses to allow it to evaluate the possible options for the short, medium, and long term. However, the improvements that the Library may make to its management procedures cannot completely compensate for the poor environmental conditions and the lack of space. This situation makes it difficult for us to provide assurance that the Library can carry out its legislative mandate for preserving its collections.
- **Recommendation.** The National Library of Canada should put in place measures that enable it to obtain comprehensive information on the condition of the published heritage.

The National Library of Canada's response. The National Library of Canada agrees with this recommendation. The Library will put in place measures to obtain comprehensive information on the condition of the

published heritage. It has always been the goal of the Library to ensure that Canada's published heritage is well protected and that current and future generations of Canadians can continue to benefit from access to it. A new strategic vision and new strategies will be developed in the coming two years and will then be implemented in the context of the new organization, Library and Archives Canada.

A risk assessment of the collections of the National Library and the National Archives is underway. The results of this study will be used as the basis for a comprehensive assessment of the conditions of Library's collections. The Library will then make decisions and implement strategies. Given the importance of this task, the Library estimates that the investment required to carry out this recommendation could be beyond existing resource levels.

Recommendation. The National Library of Canada should develop a strategic plan based on a risk analysis of the deterioration and loss of collections and set priorities and milestones.

The National Library of Canada's response. The National Library of Canada agrees with this recommendation. A corporate and comprehensive strategic plan for the preservation of collections will be an important tool to manage the collections and ensure their preservation. The corporate strategic plan will be based on the assessment of the conditions of the collections and on internationally recognized standards for preservation. It will define options and include estimates of resources necessary to implement them. Priorities and milestones will be implemented.

Recommendation. Pending a solution by the federal government to the facilities issue, the National Library of Canada should evaluate, with its partners, any alternative options for the preservation of its collections, including the risks and the costs involved. It should inform the Treasury Board Secretariat of the options it favours in the short, medium, and long term.

The National Library of Canada's response. The National Library of Canada agrees with this recommendation. Some alternative options have already been planned to address urgent requirements and are being implemented (interim collections, storage facility, ongoing major modifications to existing facilities, permanent transfer of collections space, and temporary use of other collection space from the National Archives).

As part of its strategic planning, the Library will identify key, more permanent options for the preservation of its collections, including risks and costs. The Treasury Board Secretariat will be informed of options for the short, medium,

Archival heritage

Canada's archival heritage includes records of all types: printed and electronic textual records, maps, architectural drawings, documentary art, photographic images, films, videos, audio recordings, and philatelic and national heraldic material. These records are significant because they affirm the identity of Canadians: they talk about Canadians; share their culture and history; and define their political sovereignty and their rights, privileges, and

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Did you know?

A linear metre of documents contains about 8,000 pages of text. The National Archives of Canada holds an inventory of more than 100,000 linear metres of government textual records.

obligations in society. They also provide evidence of government policies, decisions, programs, and services that influence their lives as citizens and support the judicial process. At the National Archives of Canada, records come from two sources: the federal government and the private sector. Most of our observations are aimed at the acquisition methods for documents from the federal government sector. The National Archives collections are growing steadily. For example, over the last 10 years, government textual records grew at an annual rate of 6 percent.

A protection regime with shared responsibility

- three main stakeholders: the Treasury Board Secretariat, which is responsible for establishing the federal government's information management policy; federal departments and agencies, which are responsible for applying the information management policy and managing their own records in particular; and the National Archives of Canada, which is responsible for identifying federal government documents of historic value, preserving them, and facilitating access to them after the home organizations have transferred them. The National Archives also has a mandate to facilitate sound management of federal departments' and agencies' records, which is a key prerequisite to the Archives' effective acquisition of records of historic value. The strength of the protection regime depends on these three stakeholders' ability to act in a concerted manner and to ensure that the information management policy and the National Archivist's guidelines on records disposal are applied effectively.
- 6.67 The National Archives of Canada Act invests the National Archivist with exclusive power to authorize the transfer, disposal, or destruction of records generated by federal government institutions or a federal minister's office. In accordance with this power, the National Archivist determines which government records and which cabinet minister records are of historic interest and archival importance in order to acquire them. Nearly all federal departments and agencies (about 170) are subject to the National Archives of Canada Act.
- 6.68 The National Archives of Canada's main acquisition tools for government institutions consist of the records disposition authorities program and the terms and conditions for the transfer of records. These specify, among other things, how long departments and agencies may keep their documents before transferring them to the National Archives of Canada.

Ineffective records disposition authorities regime

6.69 A records disposition authority is a legal instrument, signed by the National Archivist. It authorizes the destruction or disposal of the records generated by the relevant department or agency or their transfer to the National Archives of Canada. This instrument allows the National Archivist to determine which records have historic value and to call for the transfer of these records to the National Archives when the organization no longer needs them.

- 6.70 Independent studies conducted in the early 1980s and early 1990s concluded that the authorities' regime did not enable the collection of important records of historic value, in either quality or quantity. In 1991, the National Archives of Canada developed a strategy to improve the scope and longevity of the records disposition authorities over five years. It undertook to produce up-to-date authorities that would cover all of the functions of all departments and agencies before the end of 1996. We examined the progress made in this area.
- 6.71 Limited coverage by the records disposition authorities. According to a National Archives of Canada study dated December 2000, records disposition authorities of 21 main federal departments and agencies covered a maximum of 67 percent of operational records created for non-administrative purposes. Thus, the authorities did not cover significant portions of these key departments. This study led to further reflection on the approach to identifying records of archival value.
- 6.72 Obsolete authorities. There are 2,252 records disposition authorities in force, but only 37 percent are used. The rest have become obsolete, mainly because of the disappearance of administrative functions, government programs, or even entities, and normally would be revoked. More than half of the 831 authorities in use need to be revised or replaced. This is attributable to frequent changes in government organization, the use of new record filing systems, and the use of new record mediums and formats. These changes meant that, until recently, the National Archives had to constantly devote resources to updating authorities.
- 6.73 The use of inaccurate or inappropriate authorities is a serious threat to fulfilling the National Archives' mandate. The resulting risks are incorrect identification of records of historic value, the destruction of valuable records, and the use of too many resources (time and space). We noted that departments and agencies have stored large amounts of records in the federal records centres; these were incorrectly identified or classified, or filed without a disposal schedule. The National Archives of Canada makes these storage facilities available to federal organizations for storing their records before they are transferred to the National Archives or destroyed.
- 6.74 We also noted that the authorities based on selective retention have resulted in a massive transfer of records of little historic value to the National Archives. This type of authority, which was common before 1991, prescribed that the National Archives appraise the records after they had been transferred to the Archives. The National Archives continues to receive a large number of documents under these authorities. However, it does not have the capacity to process such a large volume of records and continues to accumulate a large backlog.
- 6.75 Furthermore, a recent survey that the National Archives conducted of four departments revealed a number of deficiencies in less-consulted records that are still under departmental control. These included a complete lack of control in the filing and retrieval of these records, invalid or incomplete records disposition authorities, undefined retention periods, and storage

conditions that do not meet the standards. These deficiencies undermine the Archives' ability to identify records of archival value and result in major storage costs for records that could already have been destroyed.

- 6.76 Terms and conditions of authorities not met. The departments and agencies—not the National Archives of Canada—determine the duration of the retention periods for their various types of records, based on their administrative and operational needs. To this end, they establish records retention schedules. Federal departments and agencies may keep their records for 5 to 30 years or more. The National Archives cannot force organizations to respect these retention periods.
- 6.77 A number of departments and agencies keep records of archival value on their premises or in the federal records centres for much longer periods than those agreed upon in the terms and conditions for transfer. Many departments hesitate to transfer their records; they claim that they need immediate access to meet their needs. When the federal departments and agencies finally transfer records to the National Archives, it is often storage needs that motivate them to do so. The increasing use of electronic records, which require little space, will probably not further encourage the organizations to transfer their records on a regular basis.
- **6.78** The Archives does not have up-to-date information on retention periods. It has not implemented a monitoring system to ensure that records are transferred according to the established retention periods.
- 6.79 Failure to transfer records at the time prescribed in the authorities, and long retention periods, increase the risk of losing contextual references necessary to assess and document the history of government activities. Furthermore, during the period when the records are in the care of the departments and agencies, the National Archives cannot protect these records or make them accessible.

A crisis situation recognized but far from being resolved

- 6.80 The National Archives recognized that, despite all its efforts, it could not attain its objective to modernize the records disposition authorities. According to the Archives, it needs to review the general method, which is still too demanding and complex; adopt more flexible tools; review its method of dealing with the federal departments and agencies; integrate internal management processes; and adopt a risk management approach. After more than 12 years of limited success in its modernization attempts, the National Archives has no assurance of fulfilling its mandate without undertaking another major revision.
- **6.81** In 2003, the National Archives of Canada decided to proceed with a fundamental rationalization exercise using a new appraisal methodology. It plans to re-evaluate all federal government activities by 2009, revoke all records disposition authorities now in effect, and replace them with more comprehensive, flexible ones that are centred on the important functions of departments.



The National Archives of Canada has yet to

- However, the National Archives of Canada has not estimated the effect of this new approach on the volume of records that will need to be processed; nor has it estimated the associated costs, despite the enormous impact that these variables have on its activities and resources. The current growth rate is of concern: inventories of National Archives government textual records increased by 85 percent over the last decade. This growth occurred in a context where the authorities did not cover a considerable number of governmental activities. There is also a significant portion of archival records that are kept in the departments, agencies, and federal records centres. Moreover, the National Archives of Canada does not have any management performance measures for archival records obtained from the federal government.
- Significant backlogs. The National Archives also has the mandate to collect records from the private sector. The Canadian Archives Branch receives personal archival collections from cabinet ministers, as well as archival material from corporations and individuals. It also deals with the photographic and audio-visual material obtained from federal departments and agencies.
- We noted considerable backlogs in the acquisition and processing of archives from the private sector, including holdings of former ministers and members of Parliament. The National Archives has estimated that it needs about 275 full-time equivalents or \$14 million to process these backlogs. About 9,000 linear metres of private records at the National Archives, which are ready to be acquired or processed, have yet to be appraised by archivists. There is also a major backlog in the processing of other types of records audio-visual, photographs, and works of art. The backlogs include a number of ministers' records from the past 35 years. In the meantime, those records are not accessible to researchers or to the public. The Canadian Archives Branch places priority on those records that may result in tax credits for the donation. Recently, the Branch did a study on the total cost of ownership, which it intends to use in planning to reduce its backlogs.
- Impact of the new Management of Government Information Policy. In May 2003, the Treasury Board Secretariat published a new Management of Government Information Policy. This policy recognizes the importance of information in the government's decision-making process, service delivery, and accountability. It confers a leading role to federal departments and agencies in information management, including the disposal and destruction of records. It also gives the National Archives a leadership role in the records management field of the Canadian government.
- The new policy encourages the use of electronic systems as a method of creating, using, and managing government information. The management of electronic records will result in a number of new requirements and will identify problems that are completely different from those caused by the paper records. For example, the life cycle, authenticity, completeness, clarity and comprehensiveness of the records, and the very definition of a record are problematic. The National Archives also recognized that the management of

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electronic records will result in a new way of acting and thinking. For example, it anticipates that it will need to intervene much earlier in the records' life cycle—in fact, before electronic records are created.

- 6.87 Over the past few years, the Archives has played a leading role and taken several initiatives to support the Treasury Board Secretariat and the departments and agencies in managing information and electronic records. However, it has not yet been able to analyze whether it has the capacity to provide all of the support and coaching they need. The draft of the joint work plan developed in June 2003 with the Treasury Board Secretariat identifies an impressive list of many types of tools to be developed and validated. Carrying out these projects will require numerous resources that the Archives has not yet estimated. Over the next few years, these tasks will increase the already large workload that will be needed to upgrade the records disposition authorities' regime.
- 6.88 Implementing the Management of Government Information Policy will require a major cultural shift in information management in the federal public service. It will also require reinforced accountability on the part of departmental management and the development of competencies. The Treasury Board Secretariat will also need to provide the means and closely monitor the situation if it wants to support the National Archives in its mandate. We found that the Secretariat had not carried out a business case for this public policy. This type of analysis generally provides information on the benefits, costs, and risks related to the policy. We are concerned that the lack of this type of information could lead information managers to interpret this policy as being a low priority in government administration.

Incomplete information on the nature and condition of archival records

- 6.89 We found that the National Archives does not have specific information on the nature or condition of archival records kept on departmental premises or in the federal records centres. The National Archives knows the general condition of its holdings. However, it does not report on what proportion of the collections is threatened by acidification and what measures are to be taken to ensure their longevity. Thus, the National Archives cannot provide information on the magnitude of this problem or, as a result, on the progress made in processing the records and the work that remains to be done. Given the lack of such information, it is difficult to establish relevant protection plans with adequate resources.
- 6.90 In summary, the National Archives of Canada has no assurance of obtaining all government records that are of historic interest or archival importance. Despite the efforts and progress made over the past decade, the National Archives is still struggling with a situation outside of its control that is growing and becoming more complex. Its capacity to carry out its legislative mandate is restricted, and the measures it is considering are far-reaching and will require validation. Without the appropriate tools, a cultural shift in the government administration, and regular accountability on the part of each stakeholder, the risks to the federal government's archival heritage will only increase.

6.91 Recommendation. The National Archives of Canada should implement mechanisms to obtain comprehensive information on the nature and condition of archival heritage, whether it is under their own control or that of departments and agencies.

The National Archives of Canada's response. The National Archives agrees with this recommendation and, in recognizing the importance of it, has recently undertaken a Collections Risk Assessment for the purpose of identifying renewed strategies for the protection and preservation of its collections. This initiative, along with the development of a more robust collections management function, will enable the organization to achieve the following: a more complete and accurate description of the state of the collection, in all the organization's facilities; a more strategic approach to preservation planning; the capacity to assess and mitigate risks to the collection under a risk management framework; effective, readily applicable survey methodologies; and a clearer identification of the information technology framework that is needed to support accurate, up-to-date reporting on the state of the collection and the progress made with preservation plans and strategies.

The National Archives has completed a review of all existing records disposition authorities and communicated the results with departments. A complete life-cycle approach is being developed that will link departmental information management practices with the archival practices of the National Archives. This approach will foster the early identification of archival records and provide departments with the necessary information management tools and guidance in order to provide appropriate care of these records until transfer to the National Archives.

If enacted, in Bill C-36 (currently before Parliament), there is a proposed amendment that would allow the Librarian and Archivist to require the transfer of government records that, in the opinion of the Librarian and Archivist, are at risk of serious damage or destruction.

6.92 Recommendation. The National Archives of Canada should implement, as soon as possible, its new method of selecting and acquiring records of historic value and report annually to Parliament on its progress. It should equip itself with appropriate management tools that allow it to measure how well it is protecting federal government records of archival value.

The National Archives of Canada's response. The National Archives agrees with this recommendation and is currently in the process of developing and implementing its new approach to the selection and acquisition of records of historic and archival value. A review of all existing records disposition authorities has been completed. In addition, new internal procedures are being developed, as are new terms and conditions for the transfer of records to the National Archives and related guidelines and application tools. This work also responds to needs expressed by government departments at a recent Information Management Focus Day.

The National Archives will seek to develop indicators and enhance its existing reporting framework, namely the Departmental Performance Report and the Report on Plans and Priorities, to provide the ability to respond to this recommendation.

6.93 Recommendation. The Treasury Board Secretariat, in collaboration with the National Archives of Canada, should develop a comprehensive plan to implement the new Management of Government Information Policy in order to provide the necessary support to federal departments and agencies that need to apply it. The Secretariat should develop a results-based management and accountability framework that departments and agencies can use in implementing the policy and in preparing reports to Parliament.

The Treasury Board Secretariat's response. The Management of Government Information Policy was the result of several years of research and consultation across the federal government. The new policy responded to the need of departments and agencies for an updated policy regime that recognized the increasing role that electronic communications, documents, and records play in the operation of government, policy and decision making, and the delivery of high-quality programs and services. It is recognized that effective implementation will require a multi-pronged strategy encompassing leadership and new accountability models, standards, and guidelines; investments in skills and technology solutions, training, and communications; and performance indicators and measurement regimes. Attitudes and practices must change if the federal government is to manage information as a valued asset.

The Treasury Board Secretariat will continue to work closely with the National Library and National Archives Canada, as well as with departments and agencies, to develop and manage a comprehensive and phased strategy for implementing the Management of Government Information Policy and sound information management practices. This work will be done within the context of the new Management Accountability Framework, which sets out the Secretariat's expectations for management excellence.

The National Archives of Canada's response. The National Archives agrees that improvements should be made in information management in government departments, including the organizing and scheduling of records to be transferred to the National Archives for permanent retention. In conjunction with government departments, it is currently developing new guidelines for the transfer of records.

It should be noted, however, that the physical transfer of records of government departments to the National Archives alone does not ensure the preservation of those records. The increasing number of electronic records created by government departments (for example, e-mail) will need new methods of management and ongoing maintenance to ensure the authenticity and reliability of these records over time, both in departments and after transfer to the National Archives. In addition, this growing challenge of managing electronic records is only part of the larger information

management challenge faced by government for records in all media. Backlogs of undermanaged traditional paper records also exist in almost every department.

The National Archives agrees with this recommendation and is currently in the process of developing such an implementation plan with the Treasury Board Secretariat's Chief Information Officer Branch and the National Library. The Treasury Board Secretariat and the National Archives have launched a joint project to assist government departments to scope the requirements necessary to implement the new Management of Government Information Policy. The National Archives has developed a self-assessment tool that departments can use to gauge their own internal state of information management readiness. Results from departmental self-assessments, as they become available, will be used in the implementation project.

Collections of federal departments and agencies

- 6.94 Over the years, a number of federal departments and agencies have accumulated important collections of various objects and specimens while carrying out their activities. Consider, for example, Agriculture and Agri-Food Canada's national collection of 17 million insects, the 33 million archaeological objects of the Parks Canada Agency, or the important artefact collections of the Department of Foreign Affairs and International Trade. Some of these organizations, such as the national museums and the Parks Canada Agency, have a legal mandate for heritage protection. The majority of them are subject to the general policies of the Treasury Board Secretariat.
- 6.95 We are concerned that the Treasury Board Secretariat's policies on materiel management and on the disposal of moveable assets do not include the protection of collections or artifacts that could have a heritage value and that are held by federal government organizations other than the national museums and the Parks Canada Agency. These organizations are also not required to conform to particular requirements for protecting these collections in their daily management operations. Consequently, they may not give their collections the needed attention or may dispose of them for practical reasons related to their primary mandate, without taking into account their heritage value. These organizations are also not required to report publicly on the management of their collections. As early as 1982, the Federal Cultural Policy Review Committee (Applebaum-Hébert) had described this situation.
- 6.96 The federal government has a number of mechanisms to evaluate the heritage value of federal buildings and that of cultural property donated to established Canadian institutions or for possible sale abroad. For example, the Canadian Cultural Property Export Review Board relies on the museums and others' expertise to determine the heritage value of artifacts or collections likely to be donated to them. A similar approach could be used to evaluate the heritage value of collections held by departments and other federal organizations.
- **6.97** Recommendation. The Treasury Board Secretariat, in collaboration with the Department of Canadian Heritage, should define its expectations in protecting heritage collections. The Secretariat should clarify, in its policies

relating to the management of movable goods, the responsibilities of federal departments and organizations that own heritage collections. The Secretariat should also determine the information on the nature and condition of collections and on the performance of protection activities that departments and organizations should provide on a periodical basis.

The Treasury Board Secretariat's response. In the context of the current rationalization of policies underway in the Secretariat, the recommendation will be considered as part of the revision to the Materiel Management Policy and the related Policy on the Disposal of Surplus Moveable Crown Assets. The latter already specifically recognizes the importance of heritage assets.

The Department of Canadian Heritage's response. The Department of Canadian Heritage will work with the Treasury Board Secretariat to ensure that Treasury Board policies related to the management of movable goods include considerations that are appropriate to the management and protection of heritage collections.

Information to Parliament

Little performance information about heritage protection programs

- 6.98 Public reports of the Department of Canadian Heritage, the Parks Canada Agency, the National Archives of Canada, and the National Library of Canada provide information to Parliament on the nature of federal cultural heritage and the risks and challenges to protection. However, these reports provide only limited information on the condition of heritage. They do not specify expected results of protection and do not provide information on results achieved and costs of proposed measures to improve protection. Thus, Parliament does not have a complete picture of the federal cultural heritage; nor does it have a clear idea of what is really accomplished with departmental resources and those of heritage organizations.
- **6.99** We found that information on the outcomes of protection measures is lacking. All organizations we examined have adopted general heritage protection objectives. For example, the Parks Canada Agency is aiming to ensure and maintain the commemorative integrity of national historic sites, and the National Archives is working to preserve the history of government. However, none has specific goals or indicators to provide an overview of when and how the commemorative integrity or history of government would be considered protected. Each organization places importance on partnership as a method of promoting heritage conservation, but none provides any information about what is expected from these partnerships.
- **6.100** There is also a lack of information about the long-term consequences of protection issues and what this means to Canadians. Reports from the National Archives of Canada and the National Library of Canada provide a wealth of information about their infrastructure deficiencies, but they offer little information on the issues of collection protection stemming from their resource reductions and the poor condition of their infrastructure.

6.101 Further, accountability for the activities of the Canadian Cultural Property Export Review Board is lacking. Indeed, the Board has not produced an annual report of its activities for 10 years, as required by the Cultural Property Export and Import Act.

6.102 Proper accountability for heritage protection would require that the Department of Canadian Heritage and federal heritage organizations provide information on the nature and condition of collections, historic sites, and federal heritage buildings, and on expected and actual results of heritage protection. The following information would allow a better definition of the expected results of the protection of cultural heritage:

- an inventory of all collections, historic sites, and heritage buildings under federal control, including an evaluation of the condition of this heritage;
- an analysis of the requirements for protecting and restoring collections and historic sites that are in poor condition;
- a management framework including priorities and some indication that the collections and historic sites in need of protection are included in these priorities;
- an estimate of the costs of protection; and
- an evaluation of the deficiencies related to the coverage of collections and an estimate of the cost to rectify these deficiencies.

6.103 The protection regimes currently in place rely on the actions of a number of stakeholders who are not equipped with the appropriate accountability mechanisms. With respect to built heritage, departments and agencies that own national historic sites and federal heritage buildings are not required to report on the management of their heritage resources. For archival heritage, the Treasury Board Secretariat and federal departments are not required to report on the management of documents. This is also the case for departments and organizations that own collections.

6.104 Recommendation. The Department of Canadian Heritage, the Parks Canada Agency, the National Archives of Canada, and the National Library of Canada should define clearly the results they wish to achieve in the protection of heritage and collect the information necessary to evaluate how well these results have been achieved. They should inform Parliament of the condition of heritage protection, the measures considered for improving this condition, and the resources needed to carry out the measures.

The Department of Canadian Heritage's response. The Department of Canadian Heritage agrees with this recommendation. Through a Heritage Policy Framework, the Department will define its desired overall outcomes for the protection of cultural heritage and develop appropriate tools and mechanisms to achieve the desired data collection, planning, and reporting. Through the Historic Places Initiative, the Department will define the desired results and reporting mechanisms to ensure the protection of built environment. In the context of its Portfolio Management responsibilities, the

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Department of Canadian Heritage will work with the respective portfolio organizations to achieve a consistent approach in the implementation of this recommendation.

The Parks Canada Agency's response. Parks Canada has provided information to Parliament on the condition of built cultural resources as part of its annual reports for several years. The Agency is also on schedule in assessing and publicly reporting on the commemorative integrity of national historic sites. In the Agency's view, insufficient funding is the most significant challenge, both in improving the timeliness of evaluations of the condition of cultural resources and its ability to improve the condition of these resources.

The National Archives of Canada's response. The National Archives agrees with this recommendation and has undertaken a Collections Risk Assessment for the purpose of identifying renewed strategies for the protection and preservation of its collections.

The creation of Library and Archives Canada is currently being considered by Parliament with Bill C-36. The new institution will continue to have collections at the heart of its services and to place a continuing priority on conservation and preservation activities of this national cultural resource. Corporate strategic policy and planning for preservation will be strengthened in the new organization.

The National Archives has reallocated existing resources in order to begin the implementation of the new information management initiatives already announced. However, the records of the Government of Canada are destined to grow and are becoming more costly and complex to maintain and preserve. The National Archives is presently under-resourced to deal with the increasing number of archival records in electronic form as well as the legacy records in government departments.

Any initiative to improve the protection of this heritage resource should address the complete life cycle of the records. This would include the resources necessary for the long-term preservation of the records in an authentic and reliable manner that would grow in relation to the volume of records created.

The National Library of Canada's response. The National Library of Canada agrees with this recommendation. More specific information about results the Library wishes to achieve regarding the protection of published heritage will be provided. Departmental performance reports, reports on plans and priorities, and other tools will report with more depth on the evaluation of results and on achieved results, noting risks and their impacts for short-, medium-, and long-term preservation.

The Library is willing to further develop, with other heritage organizations, performance indicators for the protection of cultural heritage. A logic model will be part of the Library and Archives Canada Management Accountability Framework.

Oversight of cultural heritage protection

- 6.105 The Minister of Canadian Heritage is responsible for ensuring that the major orientations of the organizations within the portfolio support the government's goals and priorities. The Minister is also responsible to Parliament for the resources allocated to the organizations. The Department of Canadian Heritage is responsible for supporting the Minister in carrying out the Department's responsibilities and in developing policies, including heritage policy.
- 6.106 To provide proper support for this role, the Department created a Portfolio Affairs Directorate with a mandate to support the development of more coherent and integrated perspectives for the portfolio organizations. This directorate integrates, among other things, portfolio issues related to policy, planning, reporting, and communication.
- **6.107** The Department also created committees composed of senior officials of each portfolio organization, to ensure that, among other things, policies, including heritage policies, are harmonized. Working groups in areas such as history and heritage, audiovisual, and the arts support these committees.

New orientations and initiatives for the protection of heritage

- 6.108 In the last three speeches from the Throne, the government committed to strengthening key arts and heritage organizations, protecting important historic sites and buildings, developing Canadian communities' capacity for heritage protection, and promoting wider use of partnerships for heritage protection.
- 6.109 In its 2002–03 Budget, the federal government introduced a \$30 million financial assistance program for businesses that own heritage sites. It recently proposed a bill to create a new institution that would consolidate the collections and expertise of the National Library of Canada and the National Archives of Canada. The Department of Canadian Heritage has launched the Historic Places Initiative and has started the development of a strategic framework for heritage.
- **6.110** Bill creating Library and Archives Canada The purpose of this bill is to create a unique and modern knowledge institution, with the authority and governance structure required to fulfill its mandate. The mandate would include preserving Canada's documentary heritage for current and future generations, being a source of lasting information about Canada that is accessible to everyone, constituting the ongoing history of Government of Canada organizations, and fostering co-operation between communities working to promote and preserve Canada's documentary heritage.
- 6.111 Historic Places Initiative. The federal government, in co-operation with provincial and territorial partners, is working to create tools to help Canadians preserve historic sites and use them in new ways. A federal-provincial-territorial working group, assisted by a variety of professionals and technical experts, developed a new Canadian Register of Historic Places. Once launched, the Register will include a list of about 20,000 Canadian historic places. The Register will be accessible by Internet and will constitute an important source of information for planners, policymakers, developers,

industry, community organizations, teachers, and students. Public authorities have developed new Conservation Standards and Guidelines. These measures will provide guidance to anyone carrying on conservation work in Canada. A work certification process is also currently being developed. These three tools may potentially be used to gain access to public funds earmarked for heritage protection.

- **6.112** The federal government is currently consulting with interested parties on drafting a bill to strengthen the protection framework for historic places. The proposed legislation would give legal protection to all historic places located on federal lands or in federal waters.
- **6.113** Development of a strategic framework for heritage. In 2000–01, the Department of Canadian Heritage made the development of a strategic framework for Canadian heritage a priority. This framework seeks to guide future interventions by the federal government in this area by clarifying the government's role, increasing the cohesiveness of the various policy instruments in effect, and creating new partnerships and new means for maximizing the government's efforts in this area. The Department, in co-operation with other federal organizations and stakeholders, has started developing this framework, but the target date for the project was delayed. However, the Department has indicated that the development of this framework remains a priority.
- 6.114 The new orientations and initiatives detailed above, although developed to renew ways of doing things, will not correct all weaknesses identified during our audit. For example, the new register of national historic sites and the legislative proposal designed to strengthen the protection framework for historic sites, federal heritage buildings, and archaeological sites will not automatically resolve the issue of how much funding to allocate to the protection of cultural heritage. Moreover, the creation of Library and Archives Canada will not be sufficient to resolve the preservation problems noted and the risks of losses of archival and published heritage.

Balancing choices with resources

- **6.115** By nature, heritage grows continuously. In the last 10 years, National Library collections increased by 35 percent and National Archives collections by 85 percent. During this period, the number of national historic sites administered by the federal government increased by seven percent. Over the last five years, the number of designated federal heritage buildings increased by 10 percent.
- **6.116** Protecting our cultural heritage means making choices about which sites and collections to protect and the means of doing so. These choices are never easy to make, but they have become critically important to the development of protection strategies. Currently, the Parks Canada Agency, the National Library of Canada, and the National Archives of Canada can hardly meet their mandate to protect heritage. A better balance between resources and the mandate and responsibilities in the area of protection and would encourage more responsible administration and accountability on the

part of government agents and provide greater assurance of the protection of heritage assets.

6.117 We feel that the time has come to adopt a more strategic and global approach to the protection of cultural heritage. The federal government needs to define more clearly the results it seeks related to heritage protection, the means available, and the resources it can earmark. This effort needs to include an examination of the way roles and responsibilities are shared by the Department of Canadian Heritage, other federal heritage organizations, and partners from other public administrations and the private sector. It must also consider the elements of heritage that are worthy of preserving.

6.118 Recommendation. The Department of Canadian heritage should complete the heritage policy framework as soon as possible.

The Department of Canadian Heritage's response. The Department of Canadian Heritage agrees with this recommendation.

6.119 Recommendation. The federal government, in collaboration with its partners from the public and private sector, should define the results it wants to achieve in the area of cultural heritage protection, examine the way roles and responsibilities are shared among heritage organizations, and find a balance between expected results and available resources.

The Department of Canadian Heritage's response. Development of the Heritage Policy Framework and the Historic Places Initiative are key tools for the federal government to define its role in heritage, to establish partnerships with other stakeholders, and to define heritage protection outcomes and strategies to achieve them. It is anticipated that the Treasury Board's expenditure and management review of the fixed capital assets of selected organizations in the Canadian Heritage portfolio will address many of the issues raised in this recommendation.

The National Library of Canada's response. The National Library agrees with this recommendation. The Library will contribute to a global review of roles and responsibilities concerning cultural heritage protection in the federal government. The Library expects the Department of Canadian Heritage to take a leadership role.

The National Library agrees that current measures for the protection of cultural heritage have reached their limits. This is particularly the case with respect to the physical infrastructure for the housing of the Library's collections that is provided by the Department of Public Works and Government Services Canada. Resource constraints have also severely limited the Library's preservation program. The Library is ready to participate, with the Department of Canadian Heritage and with other key heritage organizations, in an overall review concerning better protection of cultural heritage.

Conclusion

The protection regime has reached its limit

6.120 Our audit revealed that built, archival, and published heritage under the auspices of the federal government is at risk of being lost. This is mainly because of deficiencies in the management mechanisms, weaknesses in various protection regimes, a decrease in resources allocated to heritage protection, and the limited capacity of the buildings housing the collections to provide protection. Meanwhile, the heritage content in need of protection is increasing rapidly, and the gap between what needs to be done and the resources available is ever-widening. The risk of loss or damage caused to national historic sites and federal heritage buildings and to collections of the National Library and National Archives will increase. Thus, future generations may not have access to key heritage components or will have to bear higher costs to preserve their heritage. Exhibits 6.5, 6.6, and 6.7 summarize, for each major protection activity, strengths and deficiencies observed in built, archival, published, and movable heritage sectors.

6.121 A number of factors are responsible for the difficulties the current protection regime is currently facing. In this chapter, we report on the efficiency and effectiveness issues related to operating aspects of the organizations responsible for heritage protection; the lack of information about the nature and condition of our heritage, which undermines the capacity of the Department Canadian Heritage to develop policies; the inadequate information to Parliament; and the weak accountability of several interested federal organizations.

6.122 Currently, the Parks Canada Agency, the National Library of Canada, and the National Archives of Canada can hardly meet their mandate to protect heritage. We seriously doubt that planned management and operational improvements will allow them to meet all preservation challenges the federal government faces. We believe it is essential to rethink the ways of doing things to achieve a better balance between the volume of work and available resources. A better balance between the mandate and responsibilities for protection and resources would encourage more responsible administration and accountability on the part of government agents, and provide greater assurance of the protection of heritage assets.

6.123 The federal government has committed itself to better protecting our cultural heritage. We believe the time has come to adopt a more strategic and comprehensive approach. The federal government must reflect on the results it wants to achieve for heritage protection, on protection means available, and on resources it can allocate to this end. This review, already introduced in the context of developing a new Heritage Policy Framework, needs to include how roles and responsibilities of heritage agencies are shared among the Department of Canadian Heritage, other departments and cultural federal institutions, and partners of other public bodies and the private sector.

Exhibit 6.5 Strengths and deficiencies of information available on the nature and condition of federal tangible cultural heritage

Built heritage	Archival heritage	Published heritage	Movable heritage
Strengths		,	
Databases of national historic sites and federal heritage buildings	Inventory of archival records in the custody of the National Archives of Canada	Inventory of published documents	Some departments have inventories of their collections or artifacts.
Deficiencies		J	
Incomplete knowledge of the condition of national historic sites and federal heritage buildings managed by the Parks Canada Agency	Partial knowledge of the condition of archival records in the custody of the National Archives of Canada	Partial knowledge of the condition of publications of the National Library of Canada	No consolidated inventory describing the nature and the condition of collections and artefacts
Little knowledge of the condition of 743 national historic sites and 841 federal heritage buildings	Little knowledge of the nature and condition of archival records in the custody of federal government		
No inventory of archaeological resources located on federal lands	departments and agencies		

Exhibit 6.6 Strengths and deficiencies of identification and selection mechanisms for federal tangible cultural heritage

Built heritage	Archival heritage	Published heritage	Movable heritage
Strengths			
Strategic plans	Rigorous evaluation of the	Legal deposit	
Recognized criteria	nature of departmental records	Recognized criteria	
	Recognized criteria		
Deficiencies			
	Limited coverage of records dispositions authorities		No central evaluation mechanism of the heritag value of collections
	Weak monitoring of the application of authorities		
	Weak acquisition and processing capacity of archives from the private sector.		

Exhibit 6.7 Strengths and deficiencies of conservation mechanisms for federal tangible cultural heritage

Built heritage	Archival heritage	Published heritage	Movable heritage
Strengths			
Management plans	Facility		
Business plans	Modern laboratory		
Deficiencies	-		
Incomplete legal framework		Poor-quality facilities	None found
Little management information on		No strategic plan	
federal heritage buildings		Weak treatment capacity	
Delay in the implementation of the Parks Canada Agency's management plans		for publications	

About the Audit

Objectives

The focus of our audit was to determine whether the Department of Canadian Heritage and the main federal organizations working to protect tangible cultural heritage have implemented protection mechanisms that allow them to

- know the nature and condition of our heritage;
- identify and select the built, archival, and movable heritage that merits protection;
- · preserve built and published heritage; and
- account for the results achieved in the protection of tangible cultural heritage.

Scope and approach

Our audit, which took place between October 2002 and September 2003, covered the federal government's protection activities, rather than the valuing activities, of our tangible cultural heritage. We focussed on the areas that presented the most risk to the protection of cultural heritage: selection and conservation of national historic sites and federal heritage buildings, acquisition of federal archives, conservation of the collections of the National Library of Canada, identification of collections of federal government organizations, and identification of Canadian cultural property. We excluded the four national museums of Canada and affiliated museums from the scope of our audit. As Crown corporations, they are subject, every five years, to special examinations as set out in the *Financial Administration Act*. During the latest round of special examinations, which we undertook between 1998 and 2002, we examined whether the national museums had implemented systems and practices that enable them to protect specimen and artifact collections.

The audit was conducted in the following organizations:

- Parks Canada Agency
- National Archives of Canada
- · National Library of Canada
- Department of Canadian Heritage
- · Secretariat of the Historic Sites and Monuments Board of Canada
- Secretariat of the Canadian Cultural Property Export Review Board
- Federal Heritage Buildings Review Office
- · Treasury Board Secretariat
- Other departments that own collections

We did not examine the overall management of each of these organizations.

We did not verify how owners of national historic sites and federal heritage buildings, other than the Parks Canada Agency, protect built heritage; nor did we verify how organizations subject to the *National Archives of Canada Act* protect the archival heritage they house while records are awaiting transfer to the National Archives. We also did not verify how departments that own collections protect them. Instead, we focussed on those organizations whose primary mandate is the protection of heritage.

We visited conservation facilities of the organizations examined. We interviewed staff, examined senior management files and reports, and analyzed data.

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Criteria

We expected that

- inventories and information systems would provide reasonably reliable information about the nature and condition of tangible cultural heritage;
- the selection of elements of built, archival, and movable heritage would be based on strategies and selection plans;
- the selection of built, archival, and movable heritage would be based on recognized and relevant criteria;
- strategic conservation plans would enable relevant intervention in the preservation of built and documentary heritage;
- the preservation of built and documentary heritage would be based on the application of recognized preservation measures and established standards;
- the expected results of heritage protection would be clearly defined;
- the roles and responsibilities of federal organizations in the protection of tangible cultural heritage would be clearly defined;
- information about the effectiveness of protection mechanisms for tangible cultural heritage would be available;
 and
- · the results achieved concerning the protection of heritage would be submitted to Parliament.

Our audit supports the Auditor General of Canada's focus on Heritage and Legacy. It contributes to the well-being of Canadians by providing information on the condition of cultural heritage and the ways to improve it.

Some of the quantitative information included in this chapter is based on data from various federal departments and organizations and other sources. We have satisfied ourselves that this information was reasonably reliable given its use in the chapter. However, we did not audit this information.

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Appendix Roles and responsibilities of federal cultural organizations in heritage protection

Federal organization	Roles and responsibilities		
Department of Canadian Heritage	Develop and evaluate heritage policies.		
	Provide support to the Minister of Canadian Heritage.		
Parks Canada Agency	Provide administrative support to the Historic Sites and Monuments Board of Canada		
	 Assume important responsibilities in implementing federal government policies or national historic sites, national parks, national marine conservation areas, other protected heritage sites, and heritage protection programs. This includes ensuring and maintaining the commemorative integrity of the national historic sites it administers and promoting the value of these national historic sites. 		
National Archives of Canada	Identify, acquire, and conserve records of archival value and national importance.		
	Enable management of federal agency records and departmental records.		
	Authorize the transfer, disposal, or destruction of records.		
	Provide access to records		
National Library of Canada	Develop and conserve collections of Canadian publications.		
	Provide access to collections of Canadian publications.		
Federal Heritage Buildings Review Office	Evaluate and classify federal buildings, provide advice and guidance to other federal departments, and maintain a register of federal buildings with heritage value.		
Historic Sites and Monuments Board of Canada	Advise the Minister of Canadian Heritage on the commemoration of historic aspects and forms of commemoration.		
Canadian Cultural Property Export Review	Certify cultural property for income tax purposes.		
Board	Hear appeals of applications for export permits that have been denied.		
	Make determinations respecting fair cash offers to purchase cultural property.		
	On request, examine movable cultural property grant applications and advise the Minister of Canadian Heritage who then decides to accord or decline the grant.		
Federal departments and organizations	 Administer national historic sites and federal heritage buildings under their responsibility in such a way to preserve the sites' and buildings' heritage value throughout their life cycle. 		
	Administer and manage buildings that house heritage collections.		
	 Protect and manage government information in accordance with the Management of Government Information Policy and the National Archives of Canada Act. 		
	Protect collections in accordance with the policy on management of federal government assets.		
Treasury Board Secretariat	Develop, monitor, and evaluate the Management of Government Information Policy		
	Develop, monitor, and evaluate the policy on heritage buildings.		
	 Develop, monitor, and evaluate policies on management of movable goods and rea property. 		

Federal organization	Roles and responsibilities	
National museums	Preserve and promote the heritage of Canada by establishing, maintaining, and developing collections of works of art, objects of historical or cultural interest, objects of natural history, and scientific and technological objects, and contribute to the collective memory and sense of identity of all Canadians.	
	 Increase, throughout Canada and internationally, interest in, knowledge and critica understanding of, and respect for human cultural achievements and human behaviour. 	

Report of the Auditor General of Canada to the House of Commons—November 2003

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2003



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Auditor General
of Canada
to the House of Commons

NOVEMBER

Chapter 7

Human Resources Development Canada and the Canada Employment Insurance Commission— Measuring and Reporting the Performance of the Employment Insurance Income Benefits Program

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2003



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Chapter 7

Human Resources Development Canada and the Canada Employment Insurance Commission— Measuring and Reporting the Performance of the Employment Insurance Income Benefits Program





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The November 2003 Report of the Auditor General of Canada comprises ten chapters, Matters of Special Importance 2003, a Foreword, Main Points, and Appendices. The main table of contents is found at the end of this publication.

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Chapter

Human Resources Development Canada and the Canada Employment Insurance Commission

Measuring and Reporting the Performance of the Employment Insurance Income Benefits Program

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagement Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum require we also draw upon the standards and practices of other disciplines.	ts set by the ment for our a	udits,

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Human Resources Development Canada and the Canada Employment Insurance Commission

Measuring and Reporting the Performance of the Employment Insurance Income Benefits Program

Main Points

- 7.1 The Employment Insurance (EI) Income Benefits program provided \$12.7 billion in benefits to Canadians for temporary income replacement in 2002–03. We looked at how program performance was measured and reported from two perspectives: service to Canadians and effectiveness.
- 7.2 Human Resources Development Canada (HRDC) puts considerable effort into measuring the performance of the EI Income Benefits program and has a good deal of information with which to manage it. However, aspects of performance are not measured or are not measured well. For example, the key measure for call centres does not give the whole picture of access to this service. It did not take into account that 65 percent of calls in 2002–03 resulted in the caller getting a busy signal when trying to speak to a service representative.
- 7.3 The available performance information tells a mixed story. In 2002–03, over 95 percent of total payments to claimants were correct, and a 2001 opinion survey showed that a majority of respondents were generally satisfied with the service they received. However, performance of key aspects of service varied considerably among regions—in particular, access to call centres and the quality and timeliness of the processing of claims. Service in some regions was significantly and chronically below performance targets. The numerous efforts to improve performance in meeting service targets have made only a small difference.
- 7.4 The Canada Employment Insurance Commission and HRDC have not yet provided Parliament with a comprehensive and clear picture of the impact of the 1996 changes to the Employment Insurance Act. While many effectiveness issues have been evaluated, certain key ones have not. Although Parliament is provided with more information on the EI Income Benefits program than is required of most programs, we identified issues that still need to be addressed when reporting to Parliament. Reporting of evaluation results is often selective. The Commission and HRDC have not clearly reported what savings have resulted from the changes to the Act in 1996. Nor have reports to Parliament described other important issues, such as the uneven service across the country for processing claims and what HRDC plans to do about it.

Background and other observations

7.5 Over the past 60 years, the EI Income Benefits program has been the main income security program for working Canadians. The principal

objective of this program is to provide temporary income support to insured Canadians who involuntarily lose their jobs. Over the years, the program has evolved, recognizing that workers face other employment risks related to childbirth, parenting, and illness.

- 7.6 Employment Insurance is paid for by workers and their employers. Over the past few years, the amount of premiums they paid has exceeded the amount of benefits paid out, and a surplus of \$43.8 billion is now credited to the EI Account. Our Office has brought the size of the surplus to Parliament's attention every year since 1999. The administrative costs of the program were \$1.5 billion in 2002–03.
- 7.7 The Minister of Human Resources Development is responsible for the program. The Canada Employment Insurance Commission has specific responsibilities under the *Employment Insurance Act*. HRDC helps the Minister and the Commission, and manages and delivers the EI Income Benefits program across the country.

Human Resources Development Canada and the Canada Employment Insurance Commission have responded. The Department and the Commission agree with our recommendations and have indicated in their responses the actions they have planned or that are underway to address the recommendations. An overall response is also provided at the end of the chapter.

Introduction

- 7.8 The Great Depression of the 1930s meant hardship for millions of Canadians. It was a time of mass unemployment and seriously depressed standards of living. In 1933, at its worst, nearly one quarter of the country's labour force was out of work, and an estimated 15 percent of the population was getting some form of relief. At first, the needs of the unemployed were met through improvised community relief efforts, supplemented by private charities. These measures were followed by government-funded make-work projects, then relief through the use of vouchers, and finally, direct cash payments.
- 7.9 Among the many changes brought by the Depression was a shift in public policy regarding the jobless. Many Canadians knew what it meant to face the risk of unemployment due to forces entirely outside their control. Unemployment was a common threat and one against which collective action could and should be taken. By the end of that decade, unemployment was no longer considered solely an individual problem and a local responsibility. However, converting these public attitudes into a national program required a constitutional amendment. A 1935 effort by the government of R.B. Bennett to establish a federally run employment insurance scheme was declared by the courts to be outside the federal government's jurisdiction.
- 7.10 The May 1940 Speech from the Throne set out the federal government's priorities of industrial stability, justice, and social security. The government announced its intention to seek an amendment to the *British North America Act* to give it the authority to establish a national program of unemployment insurance. The Act was subsequently amended, clearing the way for a federal unemployment insurance scheme. In the House of Commons' debate, the Minister of Labour stated that the fundamental purpose of Unemployment Insurance was to promote the economic and social security of Canadians by supporting workers between jobs. In August 1940, the *Unemployment Insurance Act* was given Royal Assent.
- high-employment Insurance came into being during the high-employment era of World War II and helped the federal government manage the transition to a postwar economy. It began with a focus on the income support needs of regular, full-time, year-round workers who might find themselves without work temporarily. Over the next 30 years, it expanded to cover almost all employed workers. It became an important vehicle for the federal government to address a wide range of income support issues. While retaining its primary focus, it has been adapted to provide more active forms of support, such as training. Appendix A shows the principal changes to the EI Income Benefits program from 1971 to 2003.

An overview of Employment Insurance in 2003

• The *Employment Insurance Act* provides the authority for the Employment Insurance Income Benefits program. It sets out how

- premiums are collected from contributors and what benefits are provided.
- Since 1990, employers and employees have paid all costs associated with Employment Insurance through premiums.
- Benefits and administrative costs are paid out of the Consolidated Revenue Fund and charged to the Employment Insurance (EI) Account.
- In 2002–03, \$1.5 billion in administrative costs were charged to the EI Account.
- The EI Income Benefits program is intended to cover all workers in an employer-employee relationship. The self-employed do not pay premiums and therefore are not covered (except for self-employed fishers).
- In 2001, 15.1 million Canadians contributed to the program and 2.4 million received benefits.
- 7.12 Employment Insurance provides two general types of benefits: income benefits and employment benefits.
- 7.13 Income benefits. Under Part I of the *Employment Insurance Act*, income benefits are a temporary replacement of income to claimants while they look for work. This provision includes work-sharing agreements for temporary work shortages to allow employees to receive pro-rated EI benefits while working for part of a week, thereby avoiding layoffs. Employment Insurance also provides three types of special benefits: maternity benefits, payable to biological mothers for work missed as a result of pregnancy and childbirth; parental benefits, payable to both biological and adoptive parents for the purpose of caring for a newborn or adopted child; and sickness benefits, payable to claimants who are too ill to work. Exhibit 7.1 shows key statistics for income benefits for 2002–03.
- 7.14 Various approaches are used to measure the extent to which Canadians have access to EI income benefits. Appendix B shows how two of these approaches are calculated. While workers in an employer-employee relationship are required to contribute to Employment Insurance, the receipt of benefits in the event of becoming unemployed depends on meeting the requirements of the Act.
- 7.15 Employment benefits. Part II of the Employment Insurance Act provides a set of employment benefits and support measures tailored to meet the needs of individuals and local circumstances. The Government of Canada has labour market development agreements with the governments of most provinces and territories. These enable provincial and territorial governments to assume direct responsibility for the design and delivery of benefits or to take part in co-management arrangements with the federal government. The Act allows the government to spend up to 0.8 percent of the total estimated insurable earnings on employment benefits. About \$2.2 billion (0.6 percent of total insurable earnings) was spent on employment benefits in 2002–03.

Exhibit 7.1 Income benefits statistics, 2002-03

Income benefits	Expenditures (\$ millions)	Benefits average (\$ per week)	Claims
Regular	8,875	289.54	1,590,175
Parental	1,893	301.35	27,071
Maternity	858	298.81	160,278
Sickness	702	259.94	218,332
Fishing	313	396.25	36,450
Adoption	26	354.20	2,463
Work sharing	25	88.14	7,950
Total	\$12,692	-	2,042,719

Source: Human Resources Development Canada, Workload Report, April 2003

Program delivery

7.16 The Minister of Human Resources Development is responsible for the EI Income Benefits program. The Minister is assisted by the Canada Employment Insurance Commission, which has specific responsibilities under the Employment Insurance Act. The Minister and the Commission, in turn, are assisted by Human Resources Development Canada (HRDC). The Department manages and delivers the EI Income Benefits program across the country.

7.17 The administration of the EI Act is split between HRDC and the Canada Customs and Revenue Agency (CCRA). HRDC and the Commission are responsible for applying the benefit provisions. The CCRA is fully responsible for collecting EI premiums from employers and employees; collecting benefit repayments from claimants whose income for the year is higher than the threshold, through the assessment or reassessment of their income tax returns; and providing decisions on insurability under the Act. A Memorandum of Understanding between HRDC and the CCRA lists detailed services to be provided to and paid for annually by HRDC.

7.18 Under the EI Act, the Canada Employment Insurance Commission has numerous responsibilities for delivery of the EI Income Benefits program. The Commission has four members. The Chairperson and Vice-Chairperson (the Deputy Minister and Associate Deputy Minister of Human Resources Development Canada) represent the interests of the federal government. The commissioners for workers and employers represent the interests of workers

and employers, respectively. The Commission has responsibility for the following areas under the *Employment Insurance Act*:

- making regulations;
- producing annual monitoring and assessment reports;
- · reviewing and approving major EI application policies; and
- appointing worker and employer members of the appeal board of referees.

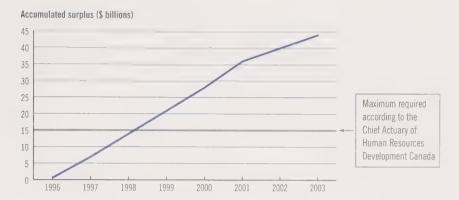
Prior to 2002, the Commission set the annual EI premium rate on the recommendation of the Ministers of HRDC and Finance.

- 7.19 The delivery of the EI Income Benefits program is largely dispersed to the community and regional levels. More than 8,000 full-time equivalents deliver and support the program across Canada. There are 320 points of service (100 main HRDC centres and 220 satellite offices where limited services are offered), 11 call centres, 6 insurance payment operation centres, and 4 information technology centres across the country.
- 7.20 The 1996 reform to the *Unemployment Insurance Act*. In 1996, Parliament approved wide-ranging changes to the *Unemployment Insurance Act* (which became the *Employment Insurance Act*). The EI Income Benefits program maintained its role of providing temporary income support. However, it was redesigned to promote stronger attachment to the labour force and to introduce stronger insurance principles into the system, with a view to softening the impact on low income families with children. The program was also adjusted to better reflect the changing nature of work in the last decade.
- 7.21 Changes were made to the eligibility system, the benefit structure, and the financing framework. Under the new system, eligibility was based on hours of work, rather than weeks, and there were stricter eligibility requirements for new entrants and re-entrants to the labour market. Changes to the benefit structure included new rules for frequent claimants. Changes also included a reduction and a freeze of the maximum insurable earnings and the introduction of premium refunds. Finally, changes were made to how the premiums were set. Taken together, these changes contributed to making it possible to accumulate large surpluses.

The surplus in the Employment Insurance Account

7.22 The surplus in the EI Account grew by \$3.3 billion in 2002–03, reaching \$43.8 billion (Exhibit 7.2). Every year since 1999, we have drawn attention to this issue in the auditor's reports on the EI Account's financial statements and in the Public Accounts of Canada. In our view, Parliament did not intend for the Account to accumulate a surplus beyond what could reasonably be spent on Employment Insurance, given the existing benefit structure and providing for an economic downturn. The current surplus is about three times the maximum reserve that the Chief Actuary of Human Resources Development Canada considered sufficient in 2001.

Exhibit 7.2 The growth of the surplus credited to the Employment Insurance Account



Source: Audited financial statements of the Employment Insurance Account

7.23 In the 2003 federal Budget, the government announced that it would consult on a new rate-setting process to be implemented for 2005. Our concerns about the surplus are discussed fully in Chapter 10, Other Audit Observations, of this Report.

The cost of administering the Employment Insurance Act

7.24 Section 77 of the Employment Insurance Act specifies that the costs of administering the Act are to be charged to the EI Account. The Minister of Human Resources Development is responsible for reporting on the EI programs to Parliament. The Canada Customs and Revenue Agency, which collects premiums and benefit repayments and provides decisions on insurability under the Act, shares the administration of the EI programs. HRDC, the CCRA, the Treasury Board Secretariat, and the Department of Justice all supply services that support management and delivery of programs under the EI Act.

7.25 The costs to provincial and territorial governments of administering employment benefits and support measures under the labour market development agreements are also charged to the EI Account (Exhibit 7.3).

Exhibit 7.3 Administrative costs of Employment Insurance

2000-01	2001-02	2002-03
1,320	1,395	1,433
94	91	91
-6	-10	-5
\$1,408	\$1,476	\$1,519
	1,320 94 -6	1,320 1.395 94 91 -6 -10

Source: Human Resources Development Canada

The Modernizing Service for Canadians initiative

7.26 HRDC is currently working on a multi-year effort to improve its performance by better responding to the changing needs and expectations of Canadians. The goal of the Modernizing Service for Canadians initiative is to renew HRDC's programs, policies, services, and service delivery by focusing on what citizens need in a way that supports their full participation in the workplace and community. While the initiative will touch virtually all aspects of HRDC's operations in some way, parts of it specifically involve Employment Insurance. For example, the Department is planning to develop a fully automated, on-line process for applying for, adjudicating, and paying EI benefits. In addition, it intends to automate fully the process for providing Records of Employment and allow employers to submit their records using the Internet.

Focus of the audit

- 7.27 We carried out this audit to determine whether
 - Human Resources Development Canada had a reasonable set of performance measures for the EI Income Benefits program and adequate controls in place to ensure that reliable data were collected;
 - HRDC was making proper use of performance information for program management and accountability purposes; and
 - the Canada Employment Insurance Commission was properly carrying out its responsibility for monitoring, assessing, and reporting on the performance of the EI Income Benefits program.
- 7.28 We did not examine the employment benefits programs of HRDC; nor did we look at the CCRA's role in EI administration. More information on our audit can be found at the end of the chapter in About the Audit.

Observations and Recommendations

Service and program effectiveness

- 1.29 The government has stated that a modern management agenda requires managers to look beyond activities and outputs to focus on actual results—the outcomes of their programs. Managing for results means clearly defining the results to be achieved, delivering the program or service, measuring and evaluating performance, and making adjustments to improve both efficiency and effectiveness. It also means reporting on performance in ways that make sense to Canadians.
- 7.30 The foundation of results-based management is accurate and timely performance information. The government expects departments and agencies to implement an information regime that measures, evaluates, and reports on key aspects of programs and their performance in core areas. It also holds managers accountable for achieving results.

7.31 We looked at how performance of the EI Income Benefits program was measured and reported from two perspectives: service to Canadians and program effectiveness.

Service to Canadians

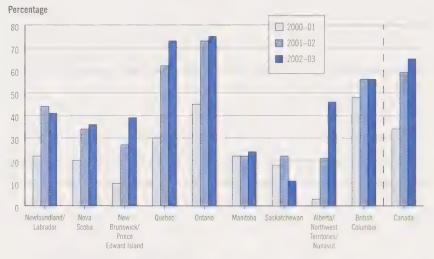
- 7.32 We examined the four distinct operational components of program delivery: answering phone inquiries at call centres, processing EI claims, processing appeals, and ensuring compliance with the EI Act and regulations. We looked at the set of measures HRDC uses to track its performance for these activities. From these measures, HRDC chose a set of key ones for reporting to Parliament in 2002–03. We examined whether reliable data had been collected for the key measures and whether the data provided a good indication of service performance.
- 7.33 We expected that HRDC would have a set of measures covering the main dimensions of service performance for each activity—the amount, timeliness, and quality of the services provided—and that these measures and associated targets would apply nationally. We also expected that management would be analyzing and using this performance information for accountability purposes and program improvements.

Performance of El call centres needs to be improved

- 7.34 HRDC encourages people to inform themselves about the EI Income Benefits program by contacting one of its 11 EI call centres, and it has been expanding the range of services that call centres provide. Callers initially reach an automated message system that may answer their questions, or they can request to be transferred to a service representative. Good service from call centres means that callers can access the information they need reasonably quickly.
- 7.35 Key measure provides partial information. HRDC's key performance measure for call centres is how long callers wait to speak to a service representative. The target is to have 95 percent of callers trying to reach a representative do so within three minutes. According to HRDC officials, this target was set to align the level of service provided by HRDC's Income Security (Canada Pension Plan, Old Age Security) and EI programs. We examined the controls for data processing for this measure at the national level, and while we found weaknesses, there was limited impact on the overall reliability of the data.
- 7.36 However, we found that none of the call centres met this service target in the last three years and performance varied considerably among regions. One region responded to 88 percent of calls in three minutes in 2002–03, while another met the target only 49 percent of the time. Moreover, this measure does not give the whole picture of access to call centres. It measures only the waiting time for those able to enter the queue to speak to a service representative—not the number of callers who get a busy signal and have to call back. HRDC received 19.8 million calls in 2002–03 when the caller tried to transfer to a representative, but this figure includes redials. It is not known how many callers these calls represented. As a result, HRDC does not have a good measure of the actual demand for call centre services.

Exhibit 7.4 shows the percentage of calls by region for the last three years when the caller got a busy signal when trying to speak to a service representative. In most regions, a substantial percentage of calls were not transferred to a representative because the queue of waiting calls was full. Moreover, the percentage is growing. In 2000–01, 34 percent of calls nationally that attempted to enter the queue got a busy signal; in 2002–03, this figure had risen to 65 percent.

Exhibit 7.4 Percentage of calls when the caller got a busy signal when trying to speak to a service representative



Source: Human Resources Development Canada

- Improvement needed in set of measures for call centres. We looked at the set of measures that management uses for call centres and found that certain aspects of service are not systematically measured. HRDC monitors aspects of call centre performance, including numbers of calls received and answered, and timeliness. However, there is no consistent approach among call centres to assess whether callers who speak with a service representative are receiving complete and accurate information. Managers have developed their own quality measures and targets for service quality. One of the four call centres we looked at had discontinued monitoring of quality. As a result, program management has difficulty comparing the quality of service among call centres.
- More needs to be done to improve performance. Regional and national program managers have identified the following reasons for problems meeting performance targets in call centres:
 - Callers bypass the automated message system even though it could answer their questions.
 - The demand for service is growing, but resources have not increased accordingly.

- Calls centres offer a broad range of services and follow varying practices.
 Where more complex service is provided, calls tend to take longer but the caller may be better served.
- · Staff turnover in some centres has been high.
- 7.40 To improve performance, management has upgraded the capability of the automated system and trained staff to help clients make more use of it. It has also worked on clarifying standard mail correspondence to reduce unnecessary inquiries at call centres. Further, it is examining ways of linking call centres to better manage call volumes and improve service.
- 7.41 These efforts have not had a significant effect on performance in meeting service targets. Notwithstanding the problems we have identified with this measure, call centres are far from meeting the three-minute target. In addition, as we have seen, the number of calls getting a busy signal when the caller was trying to speak to a service representative has increased over the past three years.

Performance in processing El claims varies among regions

- 7.42 An application for EI income benefits can be made in person at a Human Resources Canada Centre. The applicant provides a Record of Employment as well as other supporting documentation as required (for example, a medical certificate). Applications are also sent by mail or by Internet through Appli-Web, an electronic application form available on HRDC's Web page. For claims processing, good service means paying the correct amount of benefits reasonably quickly to eligible claimants.
- 7.43 HRDC's key measure for timeliness in processing benefits (speed of payment) is the percentage of first payments for initial and renewal claims made within 28 days of when the applicant becomes eligible for EI. HRDC uses the Comprehensive Tracking System (CTS) as a way to monitor payment accuracy.
- 7.44 Target for speed of first payment not met. The national target is to make 75 percent of payments within 28 days. This measure was introduced in 2001–02 to replace an older one that measured elapsed time from the date the claimant applied for benefits. Management identified reliability problems with this older indicator.
- 1.45 HRDC starts counting elapsed time from when the claimant becomes eligible for benefits. For example, if the applicant waits 14 days to apply, then the Department has only 14 days left to meet its target. HRDC officials informed us that the figure 75 percent was chosen because it was expected to both challenge the Department and take into account that client behaviour would have an impact on the timeliness of processing Employment Insurance benefits. For example, some claimants delay filing their claims and returning their reports on earnings and availability. Regions and individual offices changed their work practices to meet this new measure, but most have not been able to meet it. Performance among regions varied in 2002–03 from 44 percent in Alberta to 77 percent in New Brunswick (Exhibit 7.5).

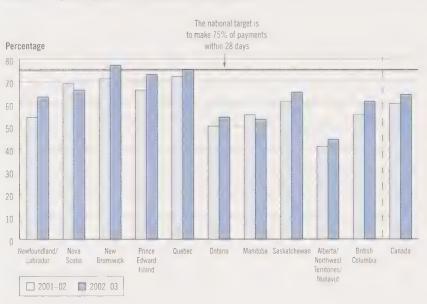


Exhibit 7.5 Speed of payment—initial and renewal claims

Source: Human Resources Development Canada

- 7.46 We examined the controls for data processing for the 75 percent target and found that they are generally adequate. However, the measure does not cover all claims. It excludes cases, for example, where a client report on earnings and availability has not been submitted and processed more than 14 days after the date it was issued. Based on preliminary findings by HRDC, a substantial portion of cases may be excluded from the measure. Management has been examining ways to include these claims in this measure.
- 7.47 Ninety-five percent of payments are correct. Based on a national sample of claims, HRDC uses the Comprehensive Tracking System to estimate overpayments and underpayments caused by claimants, employers, and the Department and presents the data in the financial statements for the EI Account. The CTS is examined as part of our financial audit of the EI Account each year. In 2002–03, the system found that 95.5 percent of payments were accurate.
- 7.48 Reasonable set of measures. We looked at the set of performance measures that HRDC uses for processing claims. We found that they reasonably cover service demand and the timeliness and quality of the service provided. However, the quality measure discussed below is not yet producing fully reliable information.
- 7.49 Many claims do not meet all quality objectives. HRDC added to its performance measures in 2001 when it began the Strategic Directions initiative. This is a standard, program-wide approach to reviewing the quality of claims processed by its staff. HRDC recently audited the initiative to determine whether it produced reliable performance information. The audit

work indicated that improvements were needed in how the initiative was implemented because the rate of quality deficiencies it had found was 10 percent higher nation-wide than what Strategic Directions had found. In our view, these findings show that the initiative is not yet producing fully reliable information.

7.50 Nationally, 61 percent of the files met all quality objectives for processing claims; in three regions, about half the files had one or more quality deficiencies (Exhibit 7.6). While many of these problems do not result in payment errors, they can have other consequences such as increased processing costs to the Department or slower service to claimants.

Percentage

80

70

68

71

65

65

65

65

60

60

60

10

Newfoundland/ Nova Labrador Scotia Brunswick Edward Island

Quebec Ontario Manitoba Saskatchewan Alberta/ Brunswick Island

Northwest Territories/

Exhibit 7.6 Percentage of files that meet all quality objectives of Human Resources Development Canada, April—August 2002

Source: Human Resources Development Canada

7.51 The Comprehensive Tracking System results also provide information on the quality of claims processing. For example, in 2002–03, despite a payment accuracy rate of 95.5 percent, the CTS showed that 28.5 percent of the files had an error leading to an overpayment or underpayment of benefits. The incorrect payments were only 4.5 percent of the total amount of benefits paid out because most claim errors involved small sums of money. Management has used these results to identify areas for improvement in the past on a national basis and to initiate national training and procedures. However, these national results can also be broken down at least to the level of the geographical areas and show some variation in performance. In our view, the CTS results could have also been used to focus improvements in quality control on specific areas needing attention.

- **7.52 Limited success in improving performance.** Regional and national program managers offered the following reasons for the program's difficulty in meeting its targets for timeliness and quality of claims processing:
 - The EI Act and regulations have become increasingly complex, and new types of benefits have been added.

- The experience of staff varies among regions, depending on turnover
- · HRDC has little control over when claimants file an EI claim after their last day of work or when records of employment are provided.
- HRDC allocates resources among regions based on expected claim volumes and not existing capacity.
- There are a number of ongoing efforts to improve performance in claims processing. Appli-Web allows claimants to apply on-line. Records of employment can also be submitted on-line by some employers. Both of these initiatives are meant to improve the speed and accuracy of processing. Chapter 1 of this report discusses our audit of Government On-Line, which includes a case study on Appli-Web.
- However, notwithstanding these efforts, the available measures provide a mixed view of service performance for claims processing. Speed of payment has improved somewhat over the last two years in some regions but is still below target in most regions. While the overall accuracy of payments has improved from 94.4 percent in 2001-02 to 95.5 percent last fiscal year, the recent audit work done by HRDC found that a significant percentage of files were not meeting all quality objectives.

Timeliness of processing appeals is a concern

- Claimants have the right to appeal within 30 days of being advised of HRDC's decision on their benefits. Employers can also appeal a decision (for example, if an employer believes that a former employee should not receive benefits). An independent body, the Board of Referees, decides on appeals. A decision by the Board can be appealed to the Umpire, an administrative tribunal that hears appeal cases. Persons not satisfied with a decision rendered by an Umpire may apply for judicial review in the Federal Court of Appeal and finally appeal to the Supreme Court. For appeals, good service by HRDC means providing timely service and accurate information.
- Timeliness targets not met. HRDC's key measure for appeals services is the percentage of hearings scheduled with the Board of Referees within 30 days of the appeal being filed. Departmental officials explained that the 90 percent target for this measure provides for the 10 percent of cases that require additional fact-finding. We examined the controls for data processing for this measure at the national level. While we found weaknesses, there was limited impact on the overall reliability of data. Performance among regions varied considerably. While certain regions exceeded the 90 percent target, others fell short (Exhibit 7.7).
- Regional and national program managers explained that delays in processing appeals often result from problems in quality with the original claim decision—for example, the information supporting the decision is incomplete and additional fact-finding needs to be done. In addition, some local managers place a higher priority on processing claims than on appeals and allocate staff accordingly. Management is implementing initiatives to

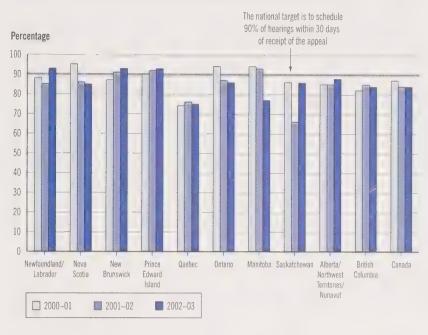


Exhibit 7.7 Timeliness in scheduling appeal hearings with the Board of Referees

Source: Human Resources Development Canada

reduce the number of appeals received by improving the quality of the initial claim decision. It has not, however, developed a specific plan to meet its timeliness targets.

- 7.58 HRDC also measures the percentage of client appeal files (referred to as a docket in the EI regulations) received at the office of the Umpire within 60 days from the date the appeal was filed. The target for this measure is set by the regulations to the EI Act at 100 percent of cases. In 20 percent of cases in 2002–03, HRDC did not comply with the regulations.
- **7.59** Recommendation. Human Resources Development Canada should comply with the regulations to the *Employment Insurance Act* in filing appeal dockets with the Umpire.

Department's response. The Department agrees with the recommendation and is implementing the necessary steps. An enhanced policy on appeals review has been put in place in 2003–04 and is in the process of being implemented.

7.60 Quality of service not measured consistently. We looked at the full set of measures used for processing appeals. Timeliness of the appeals process and some aspects of quality are measured. However, no consistent quality review of Board of Referee appeals was being done across the regions. During our audit, management began implementing a standard approach to quality review of appeals.

Objectives for savings related to investigation and control activities need to be risk-based

- 7.61 Investigation and control includes prevention, detection, and deterrence activities to ensure that claimants and employers comply with the EI Act and regulations. Good service for investigation and control means that the EI Account is protected from fraud and abuse and that claimants and employers are dealt with fairly and in a timely and professional way.
- 7.62 Problems with key measure. The key performance measure for investigation and control is total savings, which captures direct and indirect savings to the EI Account resulting from this work. Direct savings refer to the dollar value of overpayments identified and penalties imposed as a result of investigation and control activities. Indirect savings occur when an investigation prevents or reduces inappropriate benefit payments. Accordingly, these savings are derived from actuarial estimates of how long the claimant would have actually collected benefits.
- 7.63 Each year, the actual savings objective is negotiated between the Treasury Board Secretariat and HRDC based on the level of resources that HRDC plans to invest in investigation and control activities. This objective is then divided among the regions, based on past savings results. The objective for 2002–03 was \$539 million.
- While the objective is results-based, there is no comprehensive national or regional assessment of risk supporting it. A risk-based approach would start with an assessment of the likelihood and seriousness of non-compliance with the EI Act and regulations and HRDC's expected results for detecting and deterring it. The regions would then plan for the appropriate mix of prevention and detection activities, and, based on this, they would forecast expected savings. While HRDC has introduced other performance measures for investigation and control activities, the focus has remained on savings. In our view, generating savings has become an end in itself as savings objectives are based on previous savings achieved and not on program compliance objectives.
- 7.65 HRDC estimated \$523.5 million in savings last fiscal year. We examined the quality controls in place to ensure the reliability of this information. Controls were adequate, but there is a problem with how savings are calculated. For a variety of reasons, claimants can have their benefits stopped. The unpaid benefits or overpayments that result from these cases are counted as savings for performance purposes. Many decisions are subsequently revised or reversed. In these cases, however, there were no savings, but the amount recorded as savings is not adjusted accordingly. The savings are therefore overestimated. Furthermore, the problem with how savings are calculated could also lead to inappropriate behaviour by investigation and control officers. Regional staff told us that there was a risk that payment stoppages could be recommended and then reversed, resulting in overestimated savings.

- 7.66 Unclear link to program performance. Without a clear link to program objectives, it is difficult to determine how information on savings is used to improve program performance—in particular, improvements in program compliance. There is no national guidance on the balance between investigation and control activities that focus on detection of fraud (direct savings) and those that focus on prevention (indirect savings). The regional objectives for direct and indirect savings are based on the previous year's targets. We noted a wide variation among regions. For example, direct savings account for about 60 percent of total savings in Quebec, while in Ontario they represent about 40 percent. Since there is no risk assessment of the nature and extent of non-compliance with the EI Act and regulations, HRDC cannot usefully compare savings results among regions or determine whether there is an optimal split among regional activities.
- 7.67 Inconsistent approach to quality measurement. HRDC has a number of measures for its investigations and control activities—for example, dollar savings, number of prosecutions, and claimants attending information sessions. However, monitoring of the quality of investigation and control activities is inconsistent. While some regions review how investigations were handled, others do not do so consistently. This makes it difficult for HRDC to compare quality among regions.
- **7.68** Recommendation. Human Resources Development Canada should base its objectives for savings from investigation and control on an assessment of compliance risks and the Department's expected results for detecting and deterring non-compliance with the *Employment Insurance Act* and regulations.

Department's response. The Department agrees with the recommendation, which will build upon an existing strong track record regarding prevention, detection, and deterrence activities. HRDC is currently in the process of introducing a risk management approach with respect to the investigation and control function and the accompanying savings involved.

An opinion survey showed majority of clients were satisfied with the service

7.69 The Service Improvement Initiative is a government-wide effort to improve satisfaction with service quality by 10 percent by 2005. As part of this initiative, HRDC conducted an opinion survey on client satisfaction in June 2001 to establish a baseline for the EI Income Benefits program. While the survey was general in nature and there was a low response rate, the majority of respondents were satisfied with the service that they had received at an HRDC office or from a call centre. No further surveys have been done to determine whether there has been a change in client satisfaction with HRDC services.

Cost information for EI services is not based on a comprehensive approach

7.70 We looked at whether management was measuring the cost of EI services. The Department tracks unit cost for claims processing on a monthly basis. However, the information presently compiled is not based on a comprehensive approach taking into account all the relevant costing

elements that would allow valid comparisons to be made. Management told us that work is underway to establish a comprehensive approach to calculating EI unit costs.

HRDC is also required to keep track of the costs of administering the El programs. We examined whether the charges to the El Account for this purpose were reasonably accurate. We concluded that the formula used by the Department was providing a fair picture of the actual costs of administering the EI programs.

Increased efforts needed to address outstanding key performance issues

- HRDC has made a considerable effort to measure the performance of the EI Income Benefits program and has a good deal of useful information with which to manage it. However, there are aspects of performance that are not yet measured or are not measured properly. We found that HRDC has a reasonable set of performance measures for processing EI claims. However, for call centres, investigation and control, and appeals, information on the quality of service provided across regions is inconsistent. There are also problems with certain measures. Management has made some efforts to assess the causes of problems in meeting targets and to implement remedial action.
- Despite these efforts, the available performance information tells a mixed story. On the one hand, 95.5 percent of payments to claimants were correctly made. Moreover, a 2001 opinion survey on satisfaction found that respondents were generally satisfied with the EI services they received. On the other hand, the program at a national level did not meet the service targets for key aspects of its performance over the last three years. While the results vary by region and activity, service performance was often significantly and chronically below targets. This indicates that despite local, regional, and national initiatives, the Department had not made an effective effort to meet performance targets in all regions for key aspects of service delivery. It is those outstanding performance issues that management must find a way to address.
- Recommendation. Human Resources Development Canada should develop a reasonably complete picture of service performance by adding new measures where needed and correcting problems in existing measures.
- Recommendation. Human Resources Development Canada should ensure that performance targets are met across the country by further assessing the cause of performance problems and by implementing effective

Department's response. The Department agrees with the above recommendations. It has already set in place a number of targeted measures to bring about improvements in service performance, as part of the process of continuous review and improvement in this area. Within the current review process, an assessment of the adequacy and comprehensiveness of the existing array of performance indicators will be undertaken.

In addition to the above, further important and far-reaching steps are currently in the planning stage under the Department's Modernizing Service

for Canadians initiative. This multi-year effort is aimed at renewing the full range of HRDC's programs and services (including Employment Insurance) to meet the changing needs of Canadians.

Parliament is not given the full picture of the service's performance

- 1.76 HRDC uses three documents to report to Parliament. The Report on Plans and Priorities presents HRDC's planned results, while the Departmental Performance Report presents and explains actual results. The Monitoring and Assessment Report (MAR) is required by the EI Act and presents various information on the EI programs.
- 1.77 In our view, these reports have not given Parliament the full picture of the service performance of the EI Income Benefits program. They have not described important performance issues, such as the uneven speed and quality of processing claims across the country. Currently, HRDC reports only national averages for key measures, giving parliamentarians only a very broad view of performance. For call centres, it reports the percentage of calls answered by a service representative within three minutes. But it does not report the larger percentage of calls that cannot get into the queue. It also does not report how it plans to meet its service targets in all areas of the country.
- **7.78 Recommendation.** Human Resources Development Canada should report measures that better capture service performance in sufficient detail to meet the information needs of parliamentarians. The Department should describe plans to meet performance targets where required.

Department's response. Agreed. See response to recommendations 7.74 and 7.75.

Program effectiveness

The Commission has a mandate to assess the effectiveness of the El Income Benefits program

- 7.79 The EI Act requires the Canada Employment Insurance Commission to measure the effectiveness of EI benefits as well as the impacts of the 1996 legislative reform. HRDC carries out this work on behalf of and under the direction of the Commission.
- 7.80 Specifically, the Commission must monitor and assess
 - how individuals, communities, and the economy are adjusting to the changes made by the EI Act to the insurance and employment assistance programs under the *Unemployment Insurance Act*;
 - whether the savings expected as a result of the changes made by the Act are being realized; and
 - the effectiveness of the benefits and other assistance provided under the Act.
- 7.81 HRDC also undertakes policy analysis and research studies as part of its oversight role for the EI Income Benefits program and carries out evaluations as required by the Treasury Board policy on program evaluations.

7.82 In the following paragraphs, we examine how the Department and the Commission plan and co-ordinate these efforts to assess the effectiveness of the program, how it ensures the quality of the key effectiveness measurements, and how the Commission fulfills its responsibilities to report on effectiveness.

An evaluation plan needs to be developed for the program

- 7.83 The EI Income Benefits program is a large and complex program that affects Canadians and the economy in a number of ways. This fact as well as the Commission's clear mandate to measure the program's effectiveness warrants a systematic approach to evaluating the program's effectiveness over a reasonable period.
- 7.84 Branches within HRDC plan their own work relative to their responsibilities. Communication between branches takes place through the committee co-ordinating the Monitoring and Assessment Report and through the formal planning of each branch. These efforts, however, have not resulted in a common departmental evaluation plan for the EI Income Benefits program.
- 7.85 The Commission and the Department have not taken advantage of the benefits that could be derived from an evaluation plan for the EI Income Benefits program. A plan would ensure that all the key components of this EI program would be evaluated while avoiding undue overlap. It would also enable the Department to establish clear measurement priorities, co-ordinate its activities, and allocate resources. Further, it would facilitate reporting on effectiveness annually.
- 7.86 In the absence of a departmental evaluation plan for the program, we conducted an extensive review of the evaluation and policy literature on EI to establish what the Commission and the Department could have measured. We compared the efforts of HRDC and the Commission since the 1996 reform to measure the program's impacts and overall effectiveness with our review of the program's potential impacts. We found that HRDC had undertaken 68 studies addressing many of the effectiveness issues that we identified. However, we noted that it had still not addressed, or had only partly addressed, some key issues seven years after the reform to the Act. For example, it did not do an analysis of the cost-effectiveness of the EI Income Benefits program, including the impact of the EI surplus. It did only a limited analysis of the impact of the benefit repayment provision since 1996 and of the impact of EI on employers' management of their workforce.
- 7.87 We also noted that some of the studies overlapped. For example, several studies examined the impact of EI on new entrants and re-entrants (persons returning to the workforce). Given that some issues have not been evaluated, there may have been opportunities to allocate resources differently to ensure more complete coverage.
- 7.88 During our audit, HRDC began planning a comprehensive evaluation of EI and the EI reform to be completed over the next three years. The Department indicates that this evaluation will identify gaps in knowledge of

the effectiveness of the ÉI Income Benefits program and that studies will be done to address them. The studies will be used to produce synthesis reports on EI and the EI reform.

- **7.89 Recommendation.** Human Resources Development Canada should design, implement, and communicate an evaluation plan for the EI Income Benefits program.
- **7.90** Recommendation. The Canada Employment Insurance Commission should ensure that the impact of all the key changes to the *Employment Insurance Act* are assessed and reported in the Monitoring and Assessment Report.

Human Resources Development Canada's and the Canada Employment Insurance Commission's response. The Commission and the Department agree with the recommendations. Plans are currently being implemented to produce an extensive evaluation of the program's longer-term impacts. The work is scheduled to proceed over the next two years. As soon as a comprehensive evaluation framework for this work has been developed, it will be reported to Parliament through the Monitoring and Assessment Report.

As results from the evaluation work become available, the Commission will ensure that the impacts of key changes in the *Employment Insurance* Act are reported in the Monitoring and Assessment Report. This will proceed by building on the significant body of evaluation results information already developed for the Employment Insurance Income Benefits program over the last several years.

External peer reviews of evaluations and studies are done

- **7.91** Program evaluation is one of the most important efforts undertaken by a department to measure a program's effectiveness. Accordingly, we expected HRDC to have in place reasonable and appropriate quality controls for the information it produced on effectiveness issues.
- 7.92 We examined the extent to which post-reform evaluations and studies focussing on EI were subject to a peer review process. HRDC management told us that 49 out of 57 evaluations and MAR-related studies, and all the research studies published by the Applied Research Branch, were peer reviewed. We examined how HRDC conducted five of these peer reviews and found that useful technical comments were provided and used to improve the evaluations and the studies.
- 7.93 We analyzed the quality of the evaluation studies. We concluded that the five evaluations we reviewed were generally well done, with clear statements of assumptions and results, and reasonable conclusions drawn from the results. We have some concerns about the methodology used in one study, for which no peer review was done. These concerns are mitigated, however, by the fact that a previous study, conducted on a similar program design but using a more reliable methodology, produced a range of results that are consistent with the results of the second study.

The Commission is required to report to Parliament on the effectiveness of El

- In addition to its legal responsibilities to monitor and assess the effectiveness of the EI reform, the Commission is required to report to the Minister annually. The Minister, in turn, tables the report in the House of Commons. We expected that the Commission's reports to Parliament over several years would provide a comprehensive and clear view of the program's performance. We focussed our assessment on the information provided in the six monitoring and assessment reports that have been tabled in Parliament so far.
- 7.95 The MAR is an important document. Normally departments and agencies are required to report on the performance of their programs in the Departmental Performance Report. The MAR provides Parliament with more information than is required of most programs. The report annually summarizes information coming from a number of sources. This information is intended to provide an overview of the labour market and of various developments associated with the EI programs while presenting an array of information on the effectiveness of the benefits and assistance provided under the Act.
- 7.96 In our view, the Monitoring and Assessment Report has improved over the years; this was particularly noticeable in the last MAR. However, we believe that some important issues still need to be addressed in future MARs.

The savings expected from the 1996 El reform were not clearly reported

- In its 1995 Budget, the government announced that strong economic performance and unemployment insurance reform would reduce the overall size of the program "by a minimum of ten percent." In 1996 the government estimated that the EI reform alone would generate \$1.925 billion in savings by 2001-02, when all the new measures would have matured. Savings would come from the following:
 - · reduced income benefits due to changes made to the claimants' eligibility and benefits (\$1.56 billion);
 - increased sanctions for fraud through new and higher penalties for fraud for employers and employees (\$245 million); and
 - enhanced services intended to help claimants return to work faster (\$120 million).
- The El Act requires the Canada Employment Insurance Commission to monitor and assess whether the savings expected as a result of the changes made in the Act are being realized and to report on its assessment. Therefore, we expected that the Commission, with HRDC's help, would have tracked those savings in order to report on the extent to which they are being realized.
- Estimates of savings related to a reduction in income benefits were done. Those savings represent 80 percent of the total savings of \$1.925 billion promised. For the most part, tracking these savings was difficult. They were based on a series of complex assumptions, because the effects of the 1996

changes to the Act had to be separated from subsequent changes to the Act and from the growth of the economy, which also generated savings through lower unemployment rates.

7.100 Estimates for some components of the savings resulting from increased sanctions for fraud and from enhanced services to claimants were not done.

7.101 The estimated savings mentioned in paragraph 7.97 have been reported but in an inconsistent and unclear manner. Except for the first MAR, subsequent MARs did not clearly outline the savings targets and did not provide clear year-to-year progress toward targeted savings. As a result, Parliament was not clearly informed of the extent to which the expected savings were realized.

7.102 Contributing to this lack of clarity is the fact that over the years, the MARs have reported savings other than those related to the 1996 reform. For example, savings related to investigation and control activities are reported in most of the MARs without specifying that most of these activities were occurring before the reform; therefore, only a fraction of these savings could be related to the \$1.925 billion in savings promised.

7.103 Similarly, the 2002 MAR reported \$650.8 million in unpaid benefits as savings without clearly stating that the unpaid benefits reported are "gross figures" (that is, figures representing the full amount of benefits that beneficiaries could theoretically collect if they claimed all the weeks for which they are entitled—something that only occurs in a minority of cases). Findings from an ongoing evaluation by HRDC in this area suggest that the net savings (that is, an estimation based on the actual number of weeks that were not paid) related to unpaid Part I income benefits are in fact much smaller than the reported "gross figures."

7.104 Recommendation. With the help of Human Resources Development Canada, the Canada Employment Insurance Commission should clearly report, in the 2003 Monitoring and Assessment Report, the extent to which the savings expected from the 1996 changes to the *Employment Insurance Act* were achieved.

The Canada Employment Insurance Commission's response. The Commission and the Department agree that the 2003 MAR will report on the extent to which the total savings from the 1996 changes to the *Employment Insurance* Act have been achieved. This will build upon the extensive work that has already been undertaken in this area and reported in earlier MARs.

Lack of balance in effectiveness information reported

7.105 When reporting to Parliament, the Commission has not made full use of the numerous studies done by the Department on the effectiveness of the EI Income Benefits program. We compared the findings of the studies with what was reported about them in the MARs. While the information reported is factually correct, in many cases the Commission did not report all the key findings and emphasized positive findings. Management told us that these studies are available on the Internet. However, we found that over the years

many evaluations were not available until several months after the MARs were published (see Exhibit 7.8 for an example).

7.106 We found that the other information developed for the MARs was reported in a more balanced manner than the effectiveness information. For example, the MARs have consistently raised issues about the access to the fishing benefits. With the reform, the eligibility system switched from one based on weeks of work to one based on earnings. Stricter requirements apply for new entrants and re-entrants. Before the reform, the majority of fishers qualified with just the minimum number of insured weeks. The MARs indicated that virtually all claimants for fishing benefits have more earnings than the minimum required. The reports stated that these results suggest that earnings-based entry requirements may be too low given the level of revenue in the fishery.

7.107 Finally, the MARs include little discussion of the quality of performance information and the reliability of information sources, such as the studies and the surveys quoted, which would provide a basis for judging the credibility of data.

7.108 Recommendation. The Canada Employment Insurance Commission should ensure that the monitoring and assessment reports fully reflect the key findings of the studies done on program effectiveness.

7.109 Recommendation. The Canada Employment Insurance Commission should ensure that the monitoring and assessment reports provide sufficient information on the reliability of the effectiveness information reported.

Exhibit 7.8 Example of lack of balance in effectiveness reporting

The monitoring and assessment reports (MARs) do not always reflect the key findings on program effectiveness, as is the case with the intensity rule.

What is the intensity rule?

The Employment Insurance reform introduced the intensity rule, which reduced the benefit rate by one percentage point for every 20 weeks of regular or fishing benefits collected in the past five years. The intensity rule was eliminated retroactive to 1 October 2000.

How is the evaluation of the intensity rule reported in the MAR?

An evaluation study "indicates the relatively small benefit reduction as a result of application of the intensity rule may not be discouraging frequent use of the program, particularly in areas where there are few job opportunities." (MAR 1999, p. 25)

What has the MAR omitted?

The MAR summary emphasizes the minimal economic impact noted in the study, but it omits that it was too early to measure the true impact of the change and that the evaluation study stated that there was some evidence of a behavioural response to the introduction of a rating system.

When were the full findings of the evaluation published?

This evaluation study was released 10 months after the publication of the MAR.

The Canada Employment Insurance Commission's response. The Commission is pleased that the Auditor General has recognized that the MAR is a valuable report and that it is improving over time. The Commission will ensure that the report continues to improve. As part of this, the Commission will ensure that key findings from effectiveness studies are more fully reported and that sufficient information on the reliability of results measurements undertaken is provided.

Conclusion

7.110 Over the past 60 years, Employment Insurance has been the main income security program for working Canadians. The principal objective of the Employment Insurance Income Benefits program is to provide temporary income support to insured Canadians who involuntarily lose their jobs.

7.111 Employment Insurance is paid for by workers and their employers. Over the past few years, the amount of premiums has exceeded the amount of benefits, to the point that there is now a surplus of \$43.8 billion credited to the EI Account. Our Office has reported to Parliament on the size of this surplus every year since 1999. Since 2000–01, the administrative costs of the EI programs have increased from \$1.4 billion to \$1.5 billion.

7.112 We looked at the measurement and reporting of the performance of the EI Income Benefits program. We found that HRDC put considerable effort into measuring the program's performance and had a reasonable set of performance measures for processing EI claims. However, one measure related to the quality of claims is not yet producing fully reliable information. Important aspects of performance were not well measured for call centres, investigation and control, and appeals. For example, in the last two years, the majority of calls to a service representative at a call centre got a busy signal.

7.113 We examined the controls in place to ensure reliability of performance data for four key measures. Although we found weaknesses in the controls for two of the key measures, they had limited impact on the overall reliability of data. In addition, the way investigation and control savings are calculated results in their overestimation. We also examined how HRDC was tracking the costs of EI services. The Department has recognized that this cost information is not based on a comprehensive approach and has undertaken a project to address this issue.

7.114 Service to Canadians was often well below performance targets and, in many regions, chronically so. There was considerable variation among regions in timeliness and quality of processing initial and renewal claims. However, other aspects of performance were positive. In 2002–03, over 95 percent of total EI benefit payments were correct; a 2001 opinion survey showed that a majority of respondents were generally satisfied with the service they received.

7.115 We expected that HRDC would not only be measuring its performance but would also have taken action to improve it. While local, regional, and

national efforts have been made to meet service targets, they have not been effective. In our view, HRDC has not made adequate use of performance information for program management and accountability purposes.

7.116 We are also concerned that Parliament does not have a complete picture of how well the EI Income Benefits program is serving Canadians. Reports to Parliament have not described important performance issues, including the uneven speed and quality of service across the country for processing claims.

7.117 The EI Act requires the Canada Employment Insurance Commission to measure the effectiveness of EI benefits as well as the impacts of EI reform, and report its assessment through the Minister of Human Resources Development to Parliament. However, seven years after the reform to the Act, the Commission and the Department have not yet developed and reported a comprehensive and clear picture of the program's impact. In addition, certain key effectiveness issues have not yet been studied. We found that the monitoring and assessments reports have improved over the years and this was particularly noticeable in the 2002 MAR. However, we found that reporting of evaluation results is often selective and that HRDC has not reported clearly to Parliament on whether the savings expected from the 1996 reform to the EI Act were realized.

Human Resources Development Canada's and the Canada Employment and Insurance Commission's overall response. The Commission and the Department are pleased to note that the auditors acknowledge that considerable effort is being put into measuring the performance of the Employment Insurance Income Benefits program and that, as a result, there is a good deal of information with which to manage it. As noted by the audit, despite its complexity, the program has a strong track record in getting the appropriate payments to its clientele for income replacement—over 95 percent of total program payments to claimants are confirmed as correct. Further, a 2001 opinion survey showed that Employment Insurance claimants were generally satisfied with the service they received.

With respect to areas in need of improvement, the issue of differences in service performance across regions has been further confirmed by the audit. For some time, the Department has been undertaking, and is continuing to undertake, a series of targeted and systems-wide initiatives to bring about improvements in service. As the auditors note, the most important and farreaching steps are currently in the planning stage under the Department's Modernizing Service for Canadians (MSC) initiative. This multi-year effort is aimed at renewing HRDC's programs, policies, services, and service delivery by focussing on what citizens need in a way that supports their full participation in the workplace and the community. While the MSC initiative will touch virtually all aspects of HRDC's operations in some way, important parts of it will specifically involve Employment Insurance.

Elsewhere, the Commission and the Department are pleased that the audit has confirmed that important information is being made available to Parliament on the Employment Insurance Income Benefits program through

the annual Monitoring and Assessment Report (MAR). Further, it is acknowledged that recent versions of the MAR have demonstrated significant improvements. The audit also has confirmed that the Department's program evaluations of Part 1 of the *Employment Insurance Act* are well done and are making available for parliamentarians clear statements of results and reasoned conclusions regarding the program's effects.

The Commission and the Department approach the reporting of program results to Parliament as a process of continuous improvement. Consequently, the areas identified by the audit where Parliament needs to be better informed will be addressed and responded to as a matter of priority.

About the Audit

Objectives

Our audit objectives were to determine whether

- Human Resources Development Canada (HRDC) had a reasonable set of performance measures for the Employment Insurance Income Benefits program and adequate controls in place to ensure that reliable data were collected;
- HRDC was making proper use of performance information for program management and accountability purposes; and
- The Canada Employment Insurance Commission was properly carrying out its responsibility for monitoring, assessing, and reporting on the performance of the EI Income Benefits program.

Scope and approach

The scope of the audit is the Employment Insurance Income Benefits program. We looked at how performance of the program was measured and reported from two perspectives: service to Canadians and program effectiveness. We examined how service to Canadians is measured for four distinct operational components of the program delivery: answering phone inquiries at call centres, processing Employment Insurance (EI) claims, processing appeals, and ensuring compliance with the *Employment Insurance Act* and regulations. We did not examine the employment benefits programs of HRDC; nor did we look at the Canada Customs and Revenue Agency's role in EI administration.

We interviewed officials and reviewed documentation at HRDC headquarters and at the Canada Employment Insurance Commission. We examined reports to Parliament, including the evaluations and the studies on which they are based. We visited some regional and local offices and call centres where we conducted interviews with officials and analyzed various types of documentation. To assess the reliability of four key measures, we conducted tests at headquarters and in all four information technology centres on systems used by HRDC for managing performance information. In addition, we relied on internal audit work done by the Department.

Criteria

Our audit was based on the following criteria:

- The Canada Employment Insurance Commission and Human Resources Development Canada should comply with the *Employment Insurance Act* and other relevant authorities.
- The Commission should ensure that adequate procedures are in place to measure how individuals, communities, and the economy are adjusting to the changes made to the program in 1996, where such procedures could appropriately and reasonably be implemented.
- The Commission should ensure that adequate procedures are in place to measure whether the savings expected as a result of changes made to the *Employment Insurance Act* in 1996 are being realized, where such procedures could reasonably and appropriately be implemented.
- The Commission should ensure that adequate measures are in place to measure the effectiveness of benefits under the *Employment Insurance Act*, where such procedures could reasonably and appropriately be implemented.
- Performance measures should cover all key aspects of operations.
- Quality controls should provide reasonable assurance that performance data are complete, consistent, and accurate.
- Charges to the Employment Insurance Account for administering the El Income Benefits program should be reasonably accurate.

- Performance information should be available on a timely basis and be used by managers for planning, monitoring, and improving the outcomes of the program.
- The Commission should adequately report its assessment of program performance.
- HRDC should provide Parliament with adequate information on program performance.

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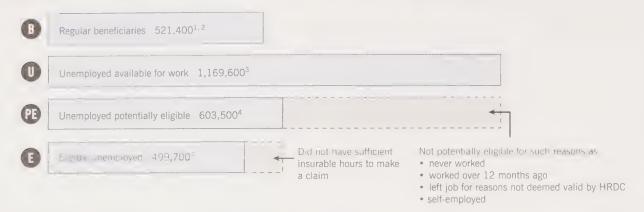
Appendix A Principal changes to Employment Insurance, 1971–2003

Year	Principal changes
1971	Bill C-229 New Unemployment Insurance Act: Universal coverage 8 weeks entrance requirement 5-phase structure Sickness and maternity benefits
1974	Bill C-16 Greater flexibility for maternity benefits (from 8 weeks before to 17 weeks after)
1976	 Bill C-69 Maternity benefits reform Maximum age reduced from 70 to 65 3 to 6 weeks disqualification
1977	Bill C-27 • Variable entrance requirement introduced, 10 to 14 weeks • Phases structure • Provision for developmental uses of UI Funds
1978	 Bill C-14 Higher entrance requirements for new entrants/re-entrants and frequent claimants Benefit rate lowered from 66% to 60% Introduction of "benefit repayment provision"
1982	Severance pay ignored for benefits and insurability
1983	 Bill C-156 Removal of "magic-10" rule for maternity claimants Other type of benefits payable during maternity period Introduction of adoption benefits
1985	Earnings on separation taken into account for benefits and insurability
1986	Pension earnings deducted from benefits
1987	 Bill C-50 Qualifying and benefit periods extended for severance pay Requalification provisions for pensions
1988	Bill C-116 Paternity benefits for fathers introduced
1989	Supreme Court Spousal employment ruled insurable
1990	Bill C-21 One-phase structure Repeater rules repealed Variable entrance requirement increased, 10 to 20 weeks 7 to 12 weeks disqualification Parental benefits for biological and adoptive parents introduced 3-week special severance benefit removed Age 65 cut-off removed

Year	Principal changes
1993	Bill C-113 • 7-12 weeks increased to full benefit period disqualification • Benefit rate reduced to 57% • Workforce reduction provisions introduced
1994	Bill C-17 Benefit rates 55% or 60% Minimum variable entrance requirement increased 12 to 20 Authority to run pilot projects
1996	Bill C-12 Insurability on an hourly-based system and from first dollar Entrance requirement increased for new-entrants and re-entrants and for past fraud Maximum insurable earnings frozen to \$39,000 Maximum benefits reduced from \$465 to \$413 Benefit rate 55% reduced gradually to 50% for repeat users Family Supplement rate up to 80% 26-week rate calculation period and divisor introduced Increased benefits repayment provisions Undeclared earnings provisions Employment support measures and labour market agreement introduced
1999	Report cards for maternity and paternity benefits waived
2000	Bill C-32 Parental benefits increased from 10 to 35 weeks One waiting period for both parents 25% or \$50 earnings applicable to parental benefits Entrance requirements reduced to 600 hours for special benefits
	 Bill C-2 Intensity rule removed Benefits repayment provisions softened New look-back period for re-entrant parents
2001	Small weeks pilot project becomes permanent feature
2002	Bill C-49 • changes to the period for claiming special benefits and to the maximum number of combined weeks of special benefits
2003	Small weeks income threshold increased

Source: Human Resources Development Canada

Appendix B Agence to Employment forterance income benefits; Two approaches



Approach 1

Beneficiaries to unemployed (B/U) ratio

In 2001, the **B**/**U** ratio was 44.6% at the national level.

Approach 2

Employment Insurance Coverage Survey⁵.

In 2001, 51.6% (PB/U) of unemployed were potentially eligible for EI benefits. Of these unemployed, 82.8% (E/PE) accumulated enough hours of paid work to make a claim.

Notes

¹ Human Resources Development Canada administrative data (year average).

² Includes regular beneficiaries who were unemployed, as well as individuals who received benefits while out of the labour force or while employed.

⁴ Proportions from the Employment Insurance Coverage Survey are used to derive numbers.

⁵ The Employment Insurance Coverage Survey is conducted by Statistics Canada for Human Resources Development Canada.

Report of the Auditor General of Canada to the House of Commons—November 2003

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Chapter 8	Indian and Northern Affairs Canada—Transferring Federal Responsibilities to the North
Chapter 9	Economic Development of First Nations Communities: Institutional Arrangements
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2003



Report of the
Auditor General
of Canada
to the House of Commons

NOVEMBER

Chapter 8
Indian and Northern Affairs Canada—
Transferring Federal Responsibilities to the North







2003



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Chapter 8

Indian and Northern Affairs Canada— Transferring Federal Responsibilities to the North





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Chapter

8

Indian and Northern Affairs Canada Transferring Federal Responsibilities to the North

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

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Indian and Northern Affairs Canada Transferring Federal Responsibilities to the North

Main Points

- 8.1 Signing a land claim agreement is a major accomplishment. Managing it afterward is an ongoing challenge that requires collaboration by all parties to the agreement. That collaboration must begin with Indian and Northern Affairs Canada (INAC) taking a leadership role in making the claims work. It must also manage federal responsibilities set out under the agreements in a way that achieves results. We found that with respect to the two claims we looked at, the Gwich'in people of the Northwest Territories (NWT) and the Inuit of Nunavut, INAC's performance on both counts has left considerable room for improvement.
- **8.2** For example, INAC seems focussed on fulfilling the letter of the land claims' implementation plans but not the spirit. Officials may believe that they have met their obligations, but in fact they have not worked to support the full intent of the land claims agreements.
- **8.3** Also, the various mechanisms for managing the claims are not effective in resolving all disputes. Land claims arbitration panels have not dealt with any of the long-standing disagreements since the claims were settled over 10 years ago.
- 8.4 In the Yukon, the federal government has successfully transferred many federal responsibilities for lands and resources to the territorial government. But INAC underestimated the time and resources needed to complete the task. It is important that it learn from the Yukon transfer experience as it enters similar discussions with the Northwest Territories.

Background and other observations

- 8.5 Over the last 30 years, Canada's North—the Yukon, Northwest Territories, and Nunavut—has taken a considerable leap forward in its political development. The Department has spearheaded an important initiative to transfer a significant portion of its northern responsibilities to the people of the North. In particular, the Government of Canada has transferred a considerable amount of its control over land and resources to the Yukon government, and it has concluded land claims agreements with many of the First Nations and Inuit across all three territories.
- **8.6** Once land claims agreements are signed, managing them well means focussing on not only meeting the specific obligations of the claims but also achieving measurable results against the objectives.

- 8.7 When the objectives are specific, all parties to the claims agreements can agree what constitutes results. However, when the objectives are openended and future-oriented, as some are in the claims we looked at, matching results with the specific legal responsibilities becomes difficult. When that happens, the mechanisms for managing the agreements—the implementation committees, the arbitration panels, and the accountability reporting—are not effective in bringing important issues to closure.
- **8.8** Furthermore, INAC's management framework, which measures success in terms of meetings, events, and activities held, as opposed to results achieved, is not effective. All are required.
- 8.9 In the Yukon, the recent devolution exercise saw the federal government transfer its management of lands and resources to the territorial government, the first transfer of such magnitude since a similar transfer to the Prairie provinces in the 1930s. The range of tasks to make this happen included changing legislation; facilitating the movement of federal employees to the Yukon government; and the transfer of properties, assets, records, and agreements.
- 8.10 We believe that the Department could have managed the process better. We also believe that it should take stock of its management of the Yukon exercise and apply the lessons learned to its upcoming devolution of responsibilities to the Northwest Territories.

The Department has responded. While the Department agrees with many of our recommendations, it fundamentally disagrees with our view of the way success for implementing land claims should be measured. The Department defines success as fulfilling the specific obligations as set out in the agreements and plans. We believe that results matter too, and that the Department should be giving them more attention.

2

Introduction

The North is a frontier, but it is a homeland too, the homeland of the Dene, Inuit and Métis, as it is also the home of the white people who live there. And it is a heritage, a unique environment that we are called upon to preserve for all Canadians. The decisions we have to make are . . . about the protection of the northern environment and the future of northern peoples.

—Mr. Justice Thomas Berger, Report of the Mackenzie Valley Pipeline Commission, 1977

- 8.11 In his 1977 report on the Mackenzie Valley pipeline inquiry, Mr. Justice Thomas Berger wrote that before any planning on the building of a pipeline could start, native land claims had to be settled.
- **8.12** Today, 26 years later, the Aboriginal people of the Mackenzie Valley are leading the effort to build a pipeline down the Valley. Through land claims agreements, self-government agreements, and devolution, Indian and Northern Affairs Canada, on behalf of the Government of Canada, is leading the federal strategy on a course of nation building in the North at an unprecedented rate.
- 8.13 The federal government has concluded an historic transfer of land and resources to the Yukon government of a nature unheard since the transfer of similar responsibilities to Manitoba, Saskatchewan, and Alberta in the 1930s. This year it began negotiations with the Government of the Northwest Territories (NWT) and the Aboriginal Summit to go through a similar exercise in the NWT.
- 8.14 In the Yukon, the federal and territorial governments and 8 of the 14 Yukon First Nations have concluded land claims and self-government agreements. In the Northwest Territories, 4 of the 7 Aboriginal groups have concluded land claims agreements. One of these, the Tlicho claim agreement, includes a self-government agreement. Self-government agreements are also being negotiated in the Deline and Beaufort Sea—Mackenzie Delta regions. In the Eastern Arctic, the Inuit signed an historic land claim agreement that led to the creation of the new territory of Nunavut. In short, through a remapping of the way the North is governed, the political make-up of Canada has changed significantly in less than a generation.
- 8.15 This chapter focusses on the management of two elements along the path to nation building—the transfer of federal lands and resources to the Yukon government and the implementation of land claims agreements for the Gwich'in people of the NWT and the Inuit of Nunavut (Exhibit 8.1).
- 8.16 The management of the transfer of responsibilities to the Yukon government is important because the federal government is embarked on a similar exercise in the NWT. It is important that the federal government learn from the Yukon exercise and apply that knowledge to the transfer of responsibilities in the other two territories. The implementation of land claims agreements is also important. It is the next step after settling land claims in creating new relationships with the Aboriginal people of the North.



Exhibit 8.1 Nation building in the North—our areas of focus

Land claims agreements are protected by section 35(1) of the Constitution of Canada. In that context, the Supreme Court of Canada stated,

... the Constitution should be interpreted in a liberal and remedial way. We cannot accept that that principle applies less strongly to aboriginal rights than to the rights guaranteed by the Charter, particularly having regard to the history and to the approach to interpreting treaties and statutes relating to Indians . . .

-R.v. Sparrow, [1990] 1 S.C.R. 1075, at 1107

While the Sparrow decision referred to historic treaties, the Federal Court noted,

When the Crown negotiates land agreements today with the Aboriginals, it need not and cannot have only their interests in mind. It must seek a compromise between that interest and the interest of the whole of society.

Even if we ascribe a fiduciary character to the relationship between the Crown and the Aboriginals, it requires good faith and reasonableness on both sides and presumes that each party respects the obligations that it assumes toward the other.

-Eastmain Band v. Canada (Federal Administrator) (C.A.), [1993] 1 F.C. 501

Public governments in the three territories are taking on responsibilities for their jurisdictions

- 8.19 The transition of responsibility for the North to the people of the North is following three streams. The first is represented by the transfer of provincial-like public responsibilities to the public governments of the three territories. The second is constitutionally protected land claim agreements, which provide that constitutionally protected rights of Aboriginal groups apply to lands and resources in a manner that will help their economic growth and self-sufficiency. The third is the move to Aboriginal self-government.
- **8.20** Until 1967, the NWT was governed by a council located in Ottawa. Today, it and the other two territories have fully functioning legislatures with representative, responsible governments that are taking on a complete range of provincial-like functions and responsibilities.
- **8.21** With devolution coming into effect on 1 April 2003, the Yukon government assumed administration and control of most public lands and natural resources from the Government of Canada. Some federal lands, such as national parks, were not part of the Devolution Transfer Agreement and continue to be run by federal departments. Also, devolution does not affect private lands, including the privately owned lands of the eight First Nations whose land claims have been completed. The administration and control of the other six First Nations' lands have been transferred to the Yukon government with measures in place for protection from third-party interests.
- **8.22** With the exception of forestry, for which the Northwest Territories government took responsibility over a decade ago, all other Crown lands and resources in the Northwest Territories, including oil and gas resources, continue to be administered by Canada and are subject to regulation under federal laws. Devolution negotiations with Nunavut over land and resources have not yet begun.

Significant number of land claims and associated implementation agreements concluded in the North

- 8.23 Over the last 20 years, there have been significant changes in the makeup of Northern land claims.
- **8.24** In the Yukon, 8 of the 14 Aboriginal groups have ratified land claims agreements and the associated self-government agreements. All 14 groups signed a common final agreement that established the basis for the negotiation of such settlements. The self-government agreements move beyond the management of land and resources and give First Nations more power over the administration of public services such as health and education.
- 8.25 In the NWT, the Inuvialuit, Gwich'in, Sahtu, and Tlicho have concluded agreements. The Deh Cho, Akaitcho, and the Northwest Territory Métis Nation are in the midst of negotiations. The eastern Arctic Inuit completed a land claim agreement in 1993, which included an agreement that the separate territory of Nunavut would be proclaimed on 1 April 1999.

Canada's changing role in the North

Signing land claim agreements and transferring responsibilities to northern governments is a significant change in the governance of the North and the maturing of Canada as a northern nation. By these actions, the federal government and Canadians are accepting that the North is more than a frontier; it is a homeland for the people who live there. Furthermore, these actions create both an opportunity and a challenge. The opportunity lies in the development of potential wealth from the natural resources of the North for the peoples of the North and for all Canada. The challenge for the Government of Canada is to work with northerners to help them share in that wealth through the transfer of responsibilities and land claim agreements in a way that is sustainable and consistent with their aspirations.

Focus of the audit

- Our audit looked at Indian and Northern Affairs Canada's management of, and accountability for, the transfer of responsibilities to the Yukon and for the implementation of land claims agreements for the Inuit of Nunavut and the Gwich'in of the NWT. Although we audited the implementation of land claims agreements in 1998 and did a follow-up in 2001, this is the first time we looked at these issues from a northern perspective.
- We conducted the audit mainly through the review of documentation available from the Department and from other sources and through interviews with key departmental officials. In addition, we interviewed key stakeholders, including representatives of the three territorial governments and Aboriginal groups.
- We examined the extent to which Indian and Northern Affairs Canada has processes in place for managing its responsibilities for implementing land claims agreements with the Inuit of Nunavut and the Gwich'in of the NWT. We also looked at how the Department is accountable for these northern responsibilities. We began by examining the management processes as set out in the land claims agreements. We then examined INAC's processes for managing its responsibilities for the agreements. We looked at both aspects because the two processes have to work together for a common goal.
- Further details on our audit objectives, scope, approach, and criteria are presented in About the Audit at the end of the chapter.

Observations and Recommendations

Land claims and implementation

Land claims agreements clarify the rights of Aboriginal groups to lands and resources in a way that contributes to their economic growth and selfsufficiency. To achieve this, the land claims agreements define a wide range of rights and benefits that generally include ownership of certain lands, a role in the management of heritage resources and parks in the settlement area, resource revenue-sharing, and specific measures to stimulate economic development.

8.32 The objectives of the two agreements with the Inuit of Nunavut and the Gwich'in of the NWT set out the expectations of the parties (Exhibit 8.2).

For every signed land claim there is an implementation agreement

- 8.33 Since the signing of the Inuvialuit land claim agreement in 1984, every subsequent claim agreement has had some form of negotiated implementation plan to put the agreement into operation. That takes a number of steps. Once the signing parties agree to the objectives of the claim they negotiate the responsibilities for achieving the objectives, all of which form part of the claim agreement. The next step is to negotiate the implementation plan, which lays out the specific activities that support the obligations and the objectives. If everything works as it should, living up to the activities of the implementation plan leads to fulfilling the obligations and objectives of the claim. (For the Inuit of Nunavut, the implementation plan is a contract; for the Gwich'in, it is a plan. We use the term implementation plan in both cases.)
- **8.34** The actions needed to carry out many of the objectives are relatively straightforward. For example, to meet the objective of providing financial compensation, a schedule of payments is established; meeting that schedule achieves the objective. To meet the objective of providing the right to

Exhibit 8.2 Land claim objectives for the Gwich'in of the Northwest Territories and the Inuit of Nunavut

Gwich'in (Northwest Territories)

- Provide for certainty and clarity of rights to ownership and use of land and resources.
- Provide the specific rights and benefits in the agreement in exchange for the relinquishment by the Gwich'in of certain rights claimed in any part of Canada by treaty or otherwise.
- Recognize and encourage the Gwich'in way of life, which is based on the cultural and economic relationship between the Gwich'in and the land.
- Encourage the self-sufficiency of the Gwich'in and enhance their ability to participate fully in all aspects of the economy.
- Provide the Gwich'in with specific benefits, including financial compensation, land, and other economic benefits.
- Provide the Gwich'in with wildlife harvesting rights and the right to participate in decision making concerning wildlife harvesting and management.
- Provide the Gwich'in with the right to participate in decision making concerning the use, management, and conservation of land, water, and resources.
- Protect and conserve the wildlife and environment of the settlement area for present and future generations.
- Ensure that the Gwich'in have the opportunity to negotiate self-government agreements.

Inuit (Nunavut)

- Provide for certainty and clarity of rights to ownership and use of lands and resources, and of rights for Inuit to participate in decision making concerning the use, management, and conservation of land, water, and resources, including the offshore.
- Provide Inuit with wildlife harvesting rights and rights to participate in decision making concerning wildlife harvesting.
- Provide Inuit with financial compensation and means of participating in economic opportunities.
- Encourage self-reliance and the cultural and social wellbeing of Inuit.

participate in decision making on the use, management, and conservation of resources, the government legislated the creation of institutions of public government. The institutions, which receive funding from the federal government, have boards of directors that include representation from the parties to the land claims agreements. The objective is met by the creation of, and continued support to, these institutions.

- However, as with many broad agreements arrived at through negotiations, the specific activities needed to meet some objectives are less clear. In those instances, progressing from meeting obligations and activities to achieving results requires the willingness of parties. When that is not enough, processes are needed to ensure that the objectives can be reached.
- The drafters of the land claims agreements foresaw this and included three processes that would contribute to results:
 - a panel to oversee implementation,
 - · a binding arbitration panel to resolve disputes, and
 - · annual reporting to demonstrate accountability.

Implementation committees and other mechanisms are not effective

- The two land claims agreements feature implementation committees that oversee the implementation process and monitor the status of obligations. The committees also have the responsibility to resolve disputes between the Aboriginal peoples and the federal and territorial governments.
- These committees consist of senior officials representing the three parties—the federal government, the territorial government, and the organization representing the Aboriginal people for the land claim. For the Inuit of Nunavut, it is Nunavut Tunngavik Incorporated; for the Gwich'in, it is the Gwich'in Tribal Council.
- Disagreements among implementation committee members. For committees like these, we expected to find an effective decision making process. We found that the implementation committee for the Gwich'in land claim agreement decides by consensus, while the Nunavut panel needs unanimous consent to arrive at decisions. These processes do not limit effective decision making if there is a willingness to make them work. However, when committee members disagree over such fundamental matters as the relationship between activities, obligations, and objectives, the processes are not effective. It should be noted that the instances of disagreement are outweighed by the areas of agreement. However, when disagreements arise that the parties are unable to resolve, they tend to contaminate relationships and make it difficult to work together for the best interests of all parties.
- Arbitration panels have not reviewed any disputes. The land claims agreements established arbitration panels to resolve such differences. The agreements specify that decisions of these panels are binding. They provide for the right to appeal—but only through a court. For the Nunavut agreement, this can happen only when there is "a failure to observe the

principles of natural justice or [when the panel is] otherwise acting beyond or refusing to exercise its jurisdiction." For the Gwich'in agreement, an appeal can take place only if the arbitrator or arbitrators have erred in law or exceeded their jurisdiction.

- **8.41** For the most part, only where each party agrees to be bound by the decisions of the arbitration panel do the disputed issues go to arbitration.
- 8.42 Furthermore, federal officials told Nunavut Tunngavik Incorporated that the federal government will not be bound by decisions of the arbitration panel on financial matters and funding levels. They stated that Canada cannot agree to be bound by a funding decision of a third party that could affect appropriations of the Parliament of Canada.
- **8.43** Our review of the work of the arbitration panels found that no cases had come before them since the claims were settled over 10 years ago. Yet disputes continue to remain unresolved. Furthermore, if it is true that Canada cannot agree to be bound by a decision of a third party on funding matters, then any money dispute can never be resolved through arbitration. Therefore any belief that arbitration is there to resolve money-related disputes, and make the land claims work more effectively, is an illusion.

Impact of disputes on land claim agreements

- 8.44 All parties generally agree that many of the obligations in the land claim agreements have been met and have led to positive outcomes. However, when there are disagreements that the oversight framework and the dispute resolution process do not resolve, unhealthy relationships can develop.
- 8.45 We looked at four disagreements—two from each of the land claims agreements—between the federal government and Aboriginal peoples (see Unresolved disagreements: Four case studies on pages 10–11). Three of the four disagreements deal with issues that arose from differences over how an obligation should be interpreted in light of the objectives of the land claim. The fourth issue—the funding of the Gwich'in Tribal Council—deals with the nature of the Government of Canada's financial obligation to the Council under the claim. We chose these four because the issues involved, and how the disagreements are handled, are important to encouraging the self-sufficiency of the Gwich'in and Inuit and enhancing their capacities to participate fully in all aspects of the economy.
- Negotting and autointables
- 8.46 Lack of performance measures. Because land claims agreements do not contain any milestones or targets, progress toward the objectives and overall performance is also unknown. We found that while the five-year review called for in the Nunavut land claim agreement was unable to arrive at any overall measure of progress toward success, it did point out that a major failure of the first five years was "ineffective implementation." It indicated that there was a general failure to think in terms of effective management. Under the Gwich'in land claim, the implementation committee decided not to conduct an extensive five-year review but to wait for an eight- to ten-year

review of the implementation plan. The committee subsequently postponed that review, pending negotiations of the implementation plan for the next 10 years of the claim.

8.47 Finally, while there is a provision in each land claim agreement for a public annual report, the report contains no discussion of these matters or matters covered in the four case studies (see pages 10–11).

Lack of performance reporting

8.48 Annual reports on land claims agreements are not helpful in holding the federal government accountable. The implementation committee for each land claim agreement must prepare and submit annual reports to the signatories. We expected annual reports like these to contain information that is useful to stakeholders in holding to account those responsible for meeting the objectives of the claims. They should be able to tell the reader what is working and what is not. Yet the agreements provide no direction on the content of these reports, other than the requirement in the Nunavut agreement that the report include "any concerns of any of the panel members."

Unresolved disagreements: Four case studies

The following four areas of disagreement illustrate differences that the processes established by the land claims agreements have been unable to resolve and are important for the economic future of the Inuit and Gwich'in. We acknowledge that we focussed only on four outstanding issues and that many issues have been resolved. However, whether the successes outweigh the disagreements in their impact on the overall performance of the claim is unknown.

Inuit of Nunavut

• Increasing Inuit employment in government

Under the Nunavut land claim agreement, article 23 calls for increasing Inuit participation in government employment to a representative level in the Nunavut settlement area. Increasing Inuit participation in the delivery of public services is an important component of public policy in Nunavut and an important element in meeting one of the

objectives of the claim—to encourage self-reliance and well-being of the Inuit.

However, at the time of the negotiations, the parties agreed that a representative level would mean a level of Inuit employment within government that reflected the ratio of Inuit to the total population in Nunavut; it would apply within all occupational groups and levels. However, they did not agree on a target date for reaching a representative level or milestones for assessing progress.

As a result, the nature and extent of federal involvement with the other parties to the agreement has been at issue for several years. The five-year independent review called for in the land claim agreement, which was to examine and analyze the obligations and recommend improvements to the implementation process, identified the lack of co-operation between the federal government and Nunavut Tunngavik Incorporated in making article 23 work. The issue of the federal role arose again in the renewal negotiations that were underway at the time of this audit. In

2001, the land claim participants created a working group to discuss the implementation of article 23, including the nature of the federal involvement. The working group was to report in a year. At the time of this audit, that report is still pending.

Currently, a committee of senior officials made up of the Deputy Minister from Indian and Northern Affairs Canada, the Chief Executive Officer of Nunavut Tunngavik, and the Deputy Minister of Executive and Intergovernmental Affairs in Nunavut are also trying to resolve this issue.

2 Encouraging Inuit competition in the Nunavut marketplace

Whereas article 23 focusses on public sector employment, article 24 focusses on building a local economic capacity among the Inuit of Nunavut. The objective of article 24 is for the federal government to support and assist Inuit firms as they compete for government contracts. It does this through a procurement policy that focusses on increasing participation by Inuit firms in

- **8.49** When we looked at the annual reports, we found that they were not results-based; they focussed primarily on activities and events rather than on useful accountability information. For example:
 - They contained no overview of how outstanding obligations will be implemented and how they relate to objectives.
 - There were no planned timelines for implementing performance targets.
 - There was no information on performance, particularly against objectives.
 - There was no process to ensure accuracy of the reported information, including information from other departments.
- **8.50** Basic principles of good reporting. In our May 2003 Report, Chapter 1, Rating Departmental Performance Reports, we included five attributes that demonstrate good public reporting (Exhibit 8.3). Our review of the annual reports on the land claims agreements found none of those attributes.

Unresolved disagreements: Four case studies (continued)

Nunavut business opportunities. The five-year review of the claim interpreted the objective to mean strengthening the Inuit's economic capabilities and removing systemic barriers to their participation in Nunavut.

Because the progression from activities to obligations to results in moving toward the objectives is not clearly spelled out, disagreement continues over the federal government's responsibilities to strengthen Inuit capability to participate in the marketplace.

Federal government contracting is one way to increase Inuit participation. However, there is no agreement on the mechanisms to be used to increase that participation. Neither is there any agreement on how employment-generating programs such as the Aboriginal Business Procurement Policy, which was created independently of the land claim agreement, will contribute to meeting the agreement's objectives.

Gwich'in of the NWT

3 Support for the traditional economy and encouragement of Gwich'in employment

In the Gwich'in claim, chapter 10 indicates that federal economic development programs should take into account the objective of maintaining and strengthening the traditional Gwich'in economy and encouraging Gwich'in economic self-sufficiency.

As with article 24 of the Nunavut land claim agreement, the focus of chapter 10 is the economic prosperity of the Gwich'in. However, how this chapter is to be implemented, including the role and form of federal government contracting, is in dispute.

Furthermore, the Gwich'in and the federal government disagree over the obligation to meet every three years to review the effectiveness of the employment creation measures. We were unable to find any three-year review of effectiveness. Now, ten years after the obligation was agreed to, a

committee has been established to look into the disagreement, but it is still at the stage of resolving definitions.

4 Gwich'in Tribal Council funding

The fourth disagreement is over the existence and extent of federal financial support for the Council under the claim. The Gwich'in believe that the spirit and intent of the claim entitles them to receive core funding as the governing body for the land claim.

The federal government counters that while it has funded the Council, it has no obligation under the claim to do so. Furthermore it says that it is not willing to debate the adequacy of its funding to the Council, given its position that it has no funding obligation in the first place. We note that the federal government has proposed a substantially increased funding package for the next 10 years. The Council has accepted this increase in funding but all parties understand that its acceptance does not compromise its claim that the amount is inadequate.

Exhibit 8.3 Attributes of good reporting

- Organizational context and strategic outcomes are clear
- · Performance expectations are clear and concrete
- · Key results are reported against expectations
- · Performance information is credible and balanced
- Use of performance information is demonstrated
- In our December 2000 Report, Chapter 19, Reporting Performance to Parliament: Progress Too Slow, we noted three factors that contribute to weak reporting by federal departments and agencies:
 - Basic principles of good reporting are not understood or applied.
 - Performance reporting takes place in a political environment.
 - Few incentives exist for good reporting and few sanctions for poor reporting.
- We did not audit whether the parties to the land claim agreements understand the basic principles of good reporting, but it is clear that they are not applying them to the annual reports. We also believe that the weaknesses in the implementation process contribute to the weak state of reporting. Finally, while the annual reports are tabled in Parliament, they are given little attention. The consequence of the weak state of reporting is poor accountability.
- Recommendation. Indian and Northern Affairs Canada should work with the other signatories of the land claims agreements to overhaul the annual reports of the Gwich'in and Nunavut land claims agreements and make them more results-based.

Department's response. The Department agrees. Through the implementation committees, the Department will work with the other parties to the agreements to strengthen reporting through the annual reports to ensure an accurate and realistic account of progress on implementation to readers. The Department agrees that there must be a shared will of all parties to overcome their differences.

Sharing of accountability calls for collaboration and commitment

In our April 1999 Report, Chapter 5, Collaborative Arrangements: Issues for the Federal Government, there was a study of collaborative arrangements established by federal departments and agencies to deliver federal programs or services. This study provides a framework for understanding accountability when there are two or more parties to agreements such as land claims. We identified credible reporting as a key

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element of effective accountability. That study also indicated that along with credible reporting, good accountability requires several other conditions:

- clear and agreed-upon expectations;
- clear roles and responsibilities;
- · balanced expectations and capacities; and
- reasonable review, program evaluation, and audit.
- **8.55** We found several areas where these conditions are weak. For example, the four areas of disagreement in the case studies illustrate an expectation gap between the federal government and the land claims beneficiaries. We also found that the decision making process for resolving difficult issues demonstrates that roles and responsibilities are not clear.
- **8.56** Arrangements where there is a sharing of accountability require the will of all parties to overcome their differences. One of the parties must also assume a leadership role. Leadership needs to be based on levels of expertise and involvement, and established through action, commitment, and cooperation with other partners. In our view, the federal government has the resources and the capacity to assume the leadership role, if not an implicit obligation. However, it cannot do so without the willingness of all the parties.

Numering leveral or gonal links

Good management includes meeting activities and obligations—and achieving results

- 8.57 Filling a leadership role begins with committing to make it happen. For the Department, that includes not only a willingness to work with the other parties but also to manage its own responsibilities with a view to achieving success. We examined the way the Department managed its responsibilities for implementing the two land claims agreements. Without measuring progress under the agreements, the Department cannot meet a key accountability requirement to demonstrate success. Overall, we found its management process inadequate.
- 8.58 In our September 1998 Report, Chapter 14, Indian and Northern Affairs Canada: Comprehensive Land Claims, we noted that the Department has a land claim obligations system (LCOS) database for managing land claims agreements. The database tracks progress, status, critical dates of projects, and activities of all federal departments that have responsibilities under land claims agreements. We noted in 1998 that the database was too general to be useful in assessing the status of certain obligations. In addition, the database tracks only activities and processes, not the results produced and the costs incurred.
- **8.59** This audit made the same findings. We found that the LCOS database lists the specific actions the federal government is taking to meet each obligation but not whether they represent progress toward full implementation of the agreements.
- 8.60 As a result, the LCOS database is not useful in helping management know whether its activities have any bearing on meeting the objectives of the claims agreements. Furthermore, in our discussions with officials it became

clear that the Department is focussed on following the letter of the obligations in the implementation plan and not on linking the obligations to results and overall performance.

- 8.61 In the Treasury Board of Canada Secretariat's Results for Canadians: A Management Framework for the Government of Canada, the federal government recommends managing for results, not solely by activities. It calls for managers to look beyond activities and outputs and focus on the impacts of their programs. We could not find anything within the LCOS database that tracks results in a way that "...allows [the Department] to serve Canadians better by distinguishing program strengths and weaknesses and providing guidance on what does and does not work." This would include such tools as milestones and targets to track the impact of federal activities on land claim agreements obligations and objectives.
- 8.62 In our 2001 Report, Chapter 12, Follow-Up of Recommendations in Previous Reports, we reviewed the progress made on our findings and recommendations from the 1998 Report on land claim agreements management. In that follow-up, we noted that the Department was developing a new monitoring system, the Treaty Obligation System, as a possible replacement for the LCOS database. The Department informed us during this audit that the Treaty Obligation System is not effective enough to replace the LCOS database.
- **8.63** Recommendation. Indian and Northern Affairs Canada should amend the land claim obligation system (LCOS) database to ensure that it focusses not only on obligations but also on results and that it provides measurable milestones and targets to gauge progress.

Department's response. A decision was made to replace the LCOS database. A project proposal has been submitted for approval to the Information Technology Committee and funds have been identified to design and develop a new obligations reporting system. The audit's recommendations and comments will be integrated to the extent possible in the design of this new system.

The Department does not know the cost of implementing the individual land claim agreements

- **8.64** Managing for results requires paying attention to an initiative from its beginning to its end. It means defining clearly the results to be achieved and delivering the program or service. It also means costing the obligations and reporting on those costs in ways that make sense to Canadians.
- **8.65** When each of the two land claim agreements we reviewed received royal assent, a range of activities began. We expected that the Department would have kept Parliament informed of its spending on each of these two claims. The Department would have tracked its direct and overhead costs and gathered the same information from the other departments involved.
- 8.66 We were unable to find any such financial reporting for either of the agreements, nor were we able to find any process to capture financial

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information for management purposes. We noted that when the two implementation plans were signed the parties agreed there would be capital transfers of \$1.12 billion to the Inuit of Nunavut to be paid out between 1990 and 2007 and \$141 million to be paid out to the Gwich'in between 1992 and 2007. We also noted that there would be ongoing activity to carry out its federal responsibilities under claim. Yet there is no reporting on the costs of these activities.

- 8.67 However, Indian and Northern Affairs Canada and many other departments involved in the claim understood that there would be incremental increases in their budgets to cover implementation costs. Yet the costs of managing land claims is reported only in INAC's 2003-04 Report on Plans and Priorities. This report provides the total planned spending for implementation but no reporting on the spending plans for either agreement. Although the Department claims the government's costs of managing the land claims agreements are insignificant, we could not find any information to support this claim.
- **8.68** In our audits of the land claim agreement process in 1998 and again in 2001, we recommended that the Department collect and report on this information. Furthermore, the Standing Committee on Public Accounts agreed that this kind of information should be reported.
- **8.69** Recommendation. Indian and Northern Affairs Canada should track and report the costs of delivering the federal activities for each claim, including the overhead for itself and the other departments involved.

Department's response. The Department reports the vast majority of the costs of implementing land claim agreement obligations in the annual reports for individual land claim agreements. The Department does not believe it would be possible, or particularly useful, to force federal departments to start keeping track of every operating and maintenance dollar spent on an agreement-by-agreement basis. The Department's current reporting practices fulfill the 1998 Report recommendation to the extent possible. Also, there are areas where delivering government programs under legislation meets, or contributes to meeting, land claim obligations. In these instances it is more important to meet the obligation than to try to determine whether or not it is an additional cost of delivering the obligation.

The Department needs to strengthen its co-ordination of the federal government's land claims agreements activities

- 8.70 Indian and Northern Affairs' departmental act gives it wide-ranging responsibilities for co-ordinating Canada's activities in the Yukon, the Northwest Territories, and Nunavut. We expected the Department to understand clearly those responsibilities.
- **8.71** The Department informed us that it works with other government departments to ensure that all contribute to completing the obligations assigned to the federal government in the implementation plan.

- 8.72 The need to co-ordinate federal activities for the land claims agreements is well-illustrated in chapter 10 of the Gwich'in agreement which provides for economic measures, and in article 24, which provides for strengthening Inuit economic capability. Both provisions require the Department to co-ordinate the activities of many departments.
- 8.73 Among those activities is the contracting by federal departments for goods and services. We expected the Department to have a clear process in place for managing this and for measuring success in meeting the objectives. This would have included a process for working with the two lead departments: Public Works and Government Services Canada (PWGSC) and the Treasury Board Secretariat.
- 8.74 Indian and Northern Affairs Canada informed us that it carries out this function by reminding other departments of their obligations for contracting. It also indicated that it continues to try to influence the Secretariat and PWGSC to address their obligations. It further informed us that it believes that Treasury Board procurement policies are consistent with land claim agreements. Yet the parties to the agreement continue to disagree over this matter. Subsequent to the audit being completed, department officials notified us that they have been working closely with federal and Nunavut Tunngavik officials to create a steering committee to resolve the issues surrounding article 24 and government contracting.
- 8.75 At the time of the audit, we noted questions being raised about the Department's ability to manage this area in the minutes of an implementation committee meeting in Nunavut. The minutes also drew attention to the Department's lack of monitoring of contracts as complicating the implementation of the objectives of article 24.
- 8.76 We believe that the Department has not been effective in co-ordinating federal responsibilities to achieve results for chapter 10 and article 24 of the Gwich'in and Nunavut land claims agreements. Furthermore, at the time of the audit, the Department had no system for knowing if other departments and agencies were violating any of the provisions of the agreements and no plan to address that problem.
- **8.77** Recommendation. Indian and Northern Affairs Canada should strengthen its co-ordinating framework to ensure that the Government of Canada meets federal responsibilities under the land claims agreements.

Department's response. The Department has a co-ordinating role in the implementation of land claim agreements and it is carried out through its relationships with other government departments, claimant groups, territorial governments, and boards and committees established pursuant to the land claims agreements.

This year, the Department restructured and streamlined the Federal Steering Committee on Self-Government and Comprehensive claims, as part of our Performance Management Framework, with the objective of establishing a shared federal vision. The Department will continue to work with this committee to ensure that implementation issues are brought to the attention of senior officials in federal departments.

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Transferring responsibilities to the Yukon

Devolution agreement with the Yukon is complete

- **8.78** We examined whether the Department had processes for managing its responsibilities for devolution to the Yukon, and how accountable it is for those responsibilities.
- 8.79 Devolution to the Yukon consisted of two main phases. The first was negotiating the areas to be transferred; the second was implementation, which included working out the details for the transfers. Our audit focussed on the implementation phase and only on the federal side of that process. We decided to look at this for two reasons. First, this devolution exercise was an historic event that marked a significant step in nation building. Second, the Department is engaged in a similar process in the Northwest Territories. The Department can apply any lessons from this audit to the Northwest Territories devolution.
- 8.80 In September 1998, the Government of Canada, the Yukon government and the Yukon First Nations signed the Yukon Devolution Protocol Accord. This accord set the parameters for negotiating the transfer to the Yukon government of provincial-type responsibilities included in Indian and Northern Affairs Canada's Northern Affairs Program.
- **8.81** On 29 October 2001, the governments of Canada and the Yukon signed the Yukon Northern Affairs Program Devolution Transfer Agreement. The agreement was implemented on 1 April 2003 when the *Yukon Act* came into effect. The key tasks that were part of the implementation covered a broad range of complex areas (Exhibit 8.4).
- **8.82** On that date, approximately 260 federal employees had accepted employment with the Yukon government. Under the Agreement, the federal government gives the Yukon government \$36 million each year for operating costs for the administration and control of land and resources in the Yukon. It gives the Yukon government approximately \$27 million over five years for costs incurred prior to devolution and as one-time transition funds to carry out its new responsibilities.

Exhibit 8.4 Key tasks for the implementation of the Yukon Northern Affairs Program Devolution Transfer Agreement

- Transfer of responsibilities previously carried out by the Northern Affairs Program in the Yukon
- Preparation for passing and repealing of federal legislation
- · Transfer of federal employees
- · Transfer of properties, assets, contracts, and records
- Transfer of fire suppression responsibilities
- Transfer of certain environmental matters including responsibilities for assessment and remediation of contaminated sites

Management framework was inadequate

This was a complex undertaking that resulted in a positive outcome. Because it was so complex, with so many broad areas of activity, we expected the Department to have conducted a risk management review before implementing the agreement. This would have meant having a management framework to identify projects, develop timelines and milestones, and generally identify and lessen risks. Indian and Northern Affairs Canada and the Yukon government were jointly responsible for implementing the Devolution Transfer Agreement. They had several working groups and plans in place, but still the Department underestimated the time and the resources needed to complete the tasks. A comprehensive management framework would have made the process run more smoothly with less stress on the people involved.

The Department kept Parliament informed of progress

Throughout the transfer of responsibilities, the Department kept Parliament informed of changes to the timetable. But, because the Department managed the transfer as part of its regular business, it had no specific budget to manage the process. As a result, it did not report on the costs to implement the transfer.

The Department has an opportunity to assess how well it implemented the Yukon devolution

- The last time there was such a significant transfer of responsibilities for land and water resources before this one was some 70 years ago. That was when the federal government transferred similar responsibilities to the Prairie provinces. The Department is now engaged in a similar exercise in the Northwest Territories. We expect the Department to assess its implementation of the Yukon transfer to improve the process. We understand that it is planning such an exercise.
- Recommendation. Indian and Northern Affairs Canada should conduct a "lessons-learned" evaluation of its management of the Yukon devolution exercise.
- Recommendation. Indian and Northern Affairs Canada should ensure that it has an adequate management framework for the implementation phase of the Northwest Territories devolution.

Department's response. The Department agrees. The transfer of land and resource management responsibilities to the Yukon government was an extremely important and complex undertaking. Despite this complexity and the path-breaking nature of many aspects of the initiative, the implementation process went remarkably smoothly due in large measure to the dedication and co-operation of involved officials, both federal and territorial.

There is no doubt, however, that improvements could and should be made when similar agreements are implemented in the Northwest Territories and Nunavut in the future.

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The Department accepts the recommendation that a lessons-learned exercise be undertaken with respect to the Yukon devolution. As noted in the chapter, preparations for such an exercise are already well underway. Ways in which to strengthen the implementation management framework will be one of several areas to be examined during this process. The Department plans to complete the lessons-learned exercise by early 2004 so that the collective experience from the Yukon devolution will be available well before planning begins for devolution implementation in the other territories.

Conclusion

- **8.88** Indian and Northern Affairs Canada's processes for managing its responsibilities under the land claims agreements in Nunavut and for the Gwich'in of the Northwest Territories and for transferring federal responsibilities to the Yukon were incomplete.
- **8.89** The land claims agreements included specific obligations. The Department focussed too heavily on managing these. It had neither clear milestones with which to assess performance, nor feedback mechanisms to assist in improving federal performance.
- 8.90 For devolution to the Yukon, the Department had some management activities, but it did not have an adequate overall management framework for planning and managing the implementation. Although the transfer exercise had a positive outcome, the lack of such a framework exposed the Department and the federal government to risks that the tasks needed to complete the undertaking were either not identified or managed in a logical timeframe.
- **8.91** The Department is fulfilling its accountability responsibility to Parliament for the Yukon devolution. However, this was not the case for the two land claims agreements we looked at.
- 8.92 Indian and Northern Affairs, in co-operation with the land claims agreements' beneficiaries and the territorial governments, is accountable to the Parliament of Canada, the territorial assemblies, and the agreements' recipients for managing the federal responsibilities under the land claims agreements. While the Department cannot act alone to make the agreements successful, it clearly needs to have a strategic focus for the objectives and obligations as set out in the agreements. It also needs to take a leadership role and work with the other two parties to develop a work plan that moves towards meeting those objectives. We believe a starting point would be better reporting to Parliament on the Department's accountability responsibilities under the land claims agreements.
- 8.93 Meeting the spirit of the agreements. Land claims agreements are about clarifying rights to lands and resources in a way that will help the economic growth and self-sufficiency for the agreements' beneficiaries. They also establish obligations on the part of the federal government and the other signatories to the agreements. Yet the Department managed the two claims

we looked at by focusing solely on the letter of the obligations, appearing not to take into account their objectives or the spirit and intent of the agreements. By managing without determining how best to meet the objectives, the Department has contributed to a sense of frustration that has developed between the beneficiaries and the federal government.

8.94 Co-operation among all parties. The success of the land claims agreements in contributing to the long-term economic prospects of the beneficiaries is not the sole responsibility of the federal government. These agreements require all parties to work together in the best interests of both the beneficiaries and all Canadians. When goodwill breaks down, it often indicates a failure to co-operate among all the parties. As the Eastmain decision stated, that co-operation should reflect "... good faith and reasonableness on both sides and [presume] that each party respects the obligations that it assumes toward the other."

Department's response. The comments on the emphasis on obligations instead of objectives represent an area of fundamental disagreement between the Department and the Office of the Auditor General.

While the Department does not dispute the importance of meeting the objectives of the agreements, it must be recognized that all parties have determined that the best way to meet the objectives is to fulfill the obligations as set out in the agreements and detailed in the implementation plans. Therefore, the success of implementation must be defined through the fulfillment of those obligations.

About the Audit

Objectives

The objectives of the audit were to assess the extent to which

- Indian and Northern Affairs Canada has processes in place for managing its responsibilities for devolution to the Yukon and for the implementation of land claims agreements for the Inuit of Nunavut and the Gwich'in of the Northwest Territories, and
- the Department is accountable for these northern responsibilities.

Scope and approach

We carried out our audit primarily at Indian and Northern Affairs Canada headquarters and included visits by the audit team to the Department's regional offices in Whitehorse, Yellowknife, and Iqaluit.

The audit team interviewed personnel in the Department and reviewed relevant documents on the management processes of the three areas included in the audit—the Yukon devolution, the Nunavut land claim agreement, and the Gwich'in land claim agreement. We also interviewed key stakeholders.

Criteria

The criteria for the audit included expectations that the Department managed the transition of governance to the North by the following:

- Clearly defining its roles and responsibilities for managing the transition to northern governance.
- Clearly outlining its activities and tasks:
 - having a clear vision, discussing strategic and operational plans with relevant stakeholders, and keeping the Department informed;
 - having appropriate resources to carry them out;
 - having the capacity to carry out its legislative responsibilities to co-ordinate federal responsibilities under the land claims agreements;
 - conducting timely performance reviews:
 - · using its performance information to improve future performance; and
 - supporting its key results with credible information.
- · Reporting its performance expectations to Parliament in a clear, structured, and timely format.
- · Reporting key results against expectations in a clear, structured, and timely format.

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to the House of Commons

NOVEMBER

Chapter 9
Economic Development of First Nations Communities:
Institutional Arrangements

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Chapter 9

Economic Development of First Nations Communities: Institutional Arrangements









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Chapter

9

Economic Development of First Nations Communities

Institutional Arrangements

All of the study work in this chapter was conducted in accordance with the policies of the Office of the Auditor General for studies. The policies draw on the standards and practices of various disciplines. The Office used various methodologies and techniques in the development and presentation of the studies' findings.

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Economic Development of First Nations Communities Institutional Arrangements

Main Points

- 9.1 There are substantial gaps in key economic indicators such as employment and income between Aboriginal and non-Aboriginal people in Canada. Closing these gaps would help reduce poverty among Aboriginal people, resulting in lower social and financial costs. However, First Nations told us they face barriers to accessing natural resources and capital, to accessing federal business support programs, and to benefiting from federal institutional development programs. These barriers increase their costs of doing business and impede their economic development.
- **9.2** The First Nations we visited for the study use several good practices in their institutional arrangements to help overcome the barriers. These practices include developing a vision to guide economic development, establishing institutional arrangements to ensure that development is sustainable, and partnering with others to benefit from economies of scale and expertise.
- **9.3** The federal government is a key contributor to First Nations economic development through its programs and its regulatory functions. These programs have assisted many successful First Nations businesses and have helped develop some institutional arrangements.
- 9.4 However, federal support for institutional arrangements is not yet sufficient to help First Nations overcome barriers and take control of their economic development. Federal organizations need to
 - consolidate the administrative requirements and improve the adaptability of business support programs,
 - help First Nations identify and build consistent and fair institutional arrangements in a timely way, and
 - use a more horizontal approach for economic development programming.

Background and other observations

9.5 Research shows that institutional arrangements make a significant difference between achieving sustained economic success or continuing in poverty. Our study examined the institutional arrangements for economic development of selected First Nations and the role of the federal government in supporting those arrangements. The institutional arrangements we examined were the organizations, rules, and practices that structure economic interaction for reserve-based First Nations.

- The Auditor General is not the auditor of First Nations. Our study was not intended to provide a comprehensive review of First Nations institutional arrangements for economic development; however, we wanted to reflect their perspectives. We sought the assistance of 13 First Nations and 4 tribal councils and governments in 5 provinces and they agreed to participate in the study.
- 9.7 The study also proposes criteria to test federal economic development programs.

The government has responded. The government agrees with the recommendations in the study. Its responses, included in the chapter, describe the actions it is taking and intends to take.

Introduction

First Nations need economic development

- 9.8 The 1996 Royal Commission on Aboriginal Peoples documented substantial gaps between Aboriginal and non-Aboriginal people in Canada in key economic indicators, such as employment and income. On average these gaps are closing only slowly and progress is complicated by high rates of 'Aboriginal population growth. Data from the 2001 census indicate that many First Nations endure high unemployment, low incomes, and reliance on transfer payments, though others have achieved levels of community income, individual income, and employment approaching non-Aboriginal society.
- 9.9 Closing these gaps would help Aboriginal people meet certain goals: making a decent living, gaining independence, and achieving freedom from the debilitating effects of poverty. As well, social and financial costs will continue to increase if First Nations' economies remain underdeveloped.

Institutional arrangements are important to sustained economic development

- 9.10 The economic circumstances of First Nations are diverse. Of First Nations communities, 61 percent have fewer than 500 people, and 21 percent are located in remote and isolated areas.
- 9.11 While size, remoteness, and proximity to resources can influence First Nations' ability to develop economically, academic research shows that institutional arrangements make a significant difference between achieving sustained economic success or continuing in poverty. Economic activity cannot thrive where there is uncertainty, and well-functioning institutional arrangements provide stability and security (Exhibit 9.1).
- **9.12** We define institutional arrangements as the formal and informal organizations and functions that structure economic interaction. In this context, institutional arrangements consist of the following:
 - Organizations or structures. These include political bodies (the chief and council of a First Nation), governmental bodies (economic development departments), business management organizations (development corporations), and less formal structures such as partnerships or negotiating forums.
 - Rules. These include treaties, agreements, laws, regulations, and policies.
 - Practices and procedures. These include staffing or planning procedures, and the outputs of procedures—strategies, plans, and certifications.
- 9.13 These institutional arrangements set the framework for economic development. They are also interrelated. Organizations develop laws and procedures, rules establish what kinds of organizations and procedures are created, and practices describe how organizations are run and how rules are implemented.

A senior First Nation manager told us, "Economic development for First Nations is good for Canadian society as a whole. A group that has been marginalized should not continue to be so, and should be contributing to the gross domestic product of the country."

Exhibit 9.1 Why do institutional arrangements matter?

In the 1990s analysis of the economic development challenge facing developing countries concluded that ineffective institutional arrangements were at the heart of the problem. The strength of institutional arrangements affects the performance of the economy through production and transaction costs. For example, if officials can change the terms of leases or royalties at will, then businesses will avoid their jurisdiction, or pay additional costs to buy extra leases or resources in case access is restricted.

Institutional arrangements reduce costs by establishing stable structures around economic interactions. These findings have led to significant changes in intervention strategies. For example, the World Bank now focusses on strengthening institutional arrangements rather than supporting businesses or infrastructure.

In 1987, researchers in the United States established the Harvard Project on American Indian Economic Development. The project has researched and collected a wealth of case studies on a range of American Indian nations and, in recent years, has begun research in Canada.

The three main findings of the Harvard Project are that First Nations prospects for economic success are increased when

- · they make their own decisions on the use of their resources and on their strategies for economic development;
- they have capable institutional arrangements, that is stable political structures, a fair dispute resolution mechanism, the separation of business from politics, a competent bureaucracy, and a strategic orientation; and
- their institutional arrangements fit their cultural identity and unique way of doing

Source: World Bank and the Harvard Project on American Indian Economic Development

Institutional arrangements can be formal and documented, or informal. However, there are benefits to formalizing many of the arrangements in economic development: economic relationships often cross cultural boundaries where concepts of what is just and fair, for example, may differ between the cultures. Formal arrangements define those concepts.

Focus of the study

- This is the second study undertaken as part of the Auditor General's focus area on Aboriginal issues. The first study examined reporting requirements. This study examined the institutional arrangements for economic development within selected First Nations and the role of the federal government in supporting those arrangements.
- 9.16 Studies differ from audits by being more exploratory in nature. This study followed the same systematic and evidence-based approach as an audit, but its objectives aim to obtain more descriptive information, and we did not identify criteria in advance. From this study we have developed criteria that we will use to evaluate federal Aboriginal economic development programs.

- The objectives of this study were to describe and analyze 9.17
 - how the institutional arrangements for economic development of selected First Nations contribute to their economic development and their need for federal support, and
 - how the federal government provides support for First Nations institutional arrangements for economic development.
- Thirteen First Nations and four tribal councils and governments, located in five provinces, offered to assist us. Tribal councils are voluntary groupings of First Nations that provide advisory and program services to member Nations. The First Nations who assisted us are generally considered to be well-governed and proactive about their economic development. Their experiences helped to identify some good practices in institutional development, but also shed light on the barriers to economic development that First Nations face across Canada.
- We examined two federal departments that provide programs targeted at First Nations economic development. As well, we examined the programs of Fisheries and Oceans Canada that provide economic opportunities for First Nations by providing access to commercial fisheries (see Appendix A for programs). We also met with three regional departments and agencies, two Crown corporations, and one special operating agency that provide assistance and economic development support to First Nations.
- 9.20 Further details on the study are at the end of the chapter in About the Study.

Observations and Recommendations

The federal government's role

- Under the Indian Act, the Indian Oil and Gas Act, the First Nations Land Management Act, and other legislation, federal organizations have responsibilities in many areas important to First Nations economic development. These include governance, management of land and resources on reserve lands, taxation, and management of revenues from the exploitation of resources on reserve lands. As well, in its 1997 Aboriginal action plan, Gathering Strength, the federal government made a commitment to "expand opportunities for economic development and reduce obstacles."
- It has repeated this commitment in subsequent policy statements, including in the 2001 and 2002 speeches from the throne.
- The federal government supports reserve-based First Nations economic development through
 - · programs to assist First Nations economic development;
 - programs with broader mandates that can nonetheless assist First Nations economic development (for example, fisheries management programs that provide economic opportunities for First Nations, or

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- regional economic development programs that are not targeted specifically to Aboriginal peoples); and
- its regulatory responsibilities under the *Indian Act* and other acts.
- 9.24 The departments of Indian and Northern Affairs Canada and Industry Canada deliver 10 programs intended to assist First Nations economic development. Fisheries and Oceans Canada provides economic opportunities to Aboriginal groups through two programs (Appendix A).
- **9.25** Indian and Northern Affairs is also responsible for most of the regulations that have an impact on reserve-based resources. These regulations are applied by several management regimes that involve First Nations to varying degrees (see Appendix B for regimes).
- 9.26 Generally, the regional development agencies do not deliver programs aimed specifically at Aboriginal peoples. However, they support individual projects, often in collaboration with Indian and Northern Affairs, Industry, and Fisheries and Oceans.
- 9.27 The federal government's economic development programs provide two kinds of support to First Nations economic development.
 - Support for businesses. Assistance to businesses to establish, improve, or expand their operations.
 - Support for institutional arrangements that facilitate First Nations economic development. Creating or strengthening organizations, rules, or procedures that establish appropriate frameworks for economic development.
- 9.28 Most programs provide both types of support to some degree. Each federal organization has its own program authorities, and the programs have their own criteria, application processes, and reporting requirements. Most of the programs respond to specific project proposals developed by First Nations and provide support for only one or two years.
- **9.29** While the focus of this study is institutional arrangements that contribute to First Nations economic development, we also looked at the business support programs.

Barriers to economic development

- **9.30** The First Nations we visited explained that, in pursuing economic development opportunities, they faced several barriers that increased their costs of doing business. These barriers are of three kinds:
 - barriers to accessing economic development resources,
 - barriers to accessing federal business support programs, and
 - barriers resulting from federal management and institutional development approaches.

First Nations' perspective on barriers to accessing economic development resources

9.31 First Nations told us their access to natural resources is restricted. The First Nations we visited consider access to natural resources an important source of economic development.

The head of one prominent First Nation organization told us,

"Underdevelopment is not simply the natural state of First Nations economies. It is happening because market forces are not operating properly on First Nation lands."

- **9.32** Generally, the lands that neighbour First Nations reserves are the responsibility of the provinces. The First Nations we visited often consider these lands their traditional territories, and in many cases those lands are subject to claims by the First Nations. The First Nations told us that, despite this, development of the lands continues—without their participation—while negotiations are underway. The First Nations noted also that exploitation of resources in these territories can disrupt their traditional economic activities, such as hunting and fishing.
- 9.33 Several First Nations noted that certain provincial policies had helped them obtain greater access to lands and resources in recent years. In particular, they cited the policies of the governments of British Columbia and Saskatchewan to involve First Nations in forest management, and Saskatchewan's policies that encourage corporations to involve northerners in their business activities.
- **9.34** First Nations told us they have difficulty accessing capital. Investing in economic development activities requires capital. Most of the First Nations we visited do not have large investment funds and, under the provisions of the *Indian Act* and other agreements, they cannot use reserve land, often their most valuable resource, as collateral for loans.
- 9.35 The First Nations told us they seek capital from such sources as
 - · banks,
 - other non-Aboriginal sources of private capital,
 - a network of federally supported Aboriginal capital corporations and community futures development corporations that provide small loans, and
 - other government programs.
- 9.36 Several First Nations told us that their biggest problems in accessing capital from these sources include uncertainty about how to secure loans and about the legal status of First Nations organizations. Also, the sources have a limited understanding of the circumstances of reserves. For example, one First Nation noted that both a major chartered bank and a local financial co-operative questioned whether the First Nation's economic development organizations could legally borrow money. The First Nations noted that non-Aboriginal financial organizations rarely locate on reserves and therefore do not have working relationships with the communities.
- 9.37 The First Nations further noted that, when they receive moneys through land settlements or other agreements, private sector financial organizations and government officials often expect those funds to be available for investment in businesses—even when the funds are intended to meet other critical community needs, such as improving infrastructure. Also, some First Nations commented that support from Aboriginal capital corporations or community futures development corporations is costly because their interest rates are high compared to banks'.

9.38 Some First Nations pointed out that once they build a relationship with private sector financial organizations, those organizations can become very helpful.

First Nations' perspective on barriers to accessing federal business support

- 9.39 First Nations told us that keeping track of the requirements of different programs is a substantial burden. Because of their small size and limited resources, several of the First Nations we visited have only one economic development officer. Several economic development officers told us they spend much of their time preparing funding proposals, sustaining businesses, and helping entrepreneurs fulfill the reporting requirements of successful applications. They also told us that they have difficulty keeping updated on the details of the numerous federal, provincial, and local programs that are available, despite the communication efforts of federal organizations.
- 9.40 First Nations told us that federal officials, when reviewing projects, are reluctant to take risks. Some First Nations we visited noted that the departments of Indian and Northern Affairs and Industry report that the failure rates for Aboriginal start-ups they support are lower than for other Canadian start-ups. Department officials consider this an indicator of the success of their programs. However, First Nations argue that it is an indicator that federal officials are reluctant to take risks. The First Nations commented that the low tolerance for risk results in program managers conducting lengthy reviews of project proposals, which can cause delays in processing.
- 9.41 First Nations told us that project approval processes do not move at the speed of business. Several First Nations we visited told us that delays can result in lost opportunities, increased cost, or increased risk to the project. They felt that federal organizations, generally, did not take a client-centred approach to project approval. For example, one First Nation told us that they had a narrow window in which to purchase a successful non-Aboriginal business located on-reserve, and that Indian and Northern Affairs was unable to approve the application in time to provide support.
- 9.42 In another case, a First Nation told us that Indian and Northern Affairs took more than 13 months to approve an equity contribution for a project. The delay stemmed in part from federal officials inconsistently applying program criteria to the project. The result: additional costs to the First Nation.
- 9.43 First Nations told us that program criteria are difficult to adapt to large-scale, complex economic development projects. The priorities, criteria, and funding limits of federal programs mean that sometimes they can fund only a small portion of larger, multi-dimensional projects. Therefore, some First Nations told us, they pursue funding from several organizations and programs, but each program may require a separate application process. Each may also require the project to be adjusted to meet the program terms. As well, each participating federal organization may require the First Nation

to file separate progress reports. First Nations referred to this time-consuming process as trying to "fit a square peg into a round hole."

First Nations' perspective on barriers resulting from federal management and institutional development approaches

- 9.44 First Nations told us that the *Indian* Act processes are burdensome. Some of the processes required by the resource management regimes (Appendix B) are complex. For example, payments from resource development on reserve lands, such as rents and royalties, are not made to the First Nation. Instead, the payments are made to Indian and Northern Affairs and placed into trust accounts. To access the funds, the First Nation must make a request to the Minister and support it with a band council resolution and plans detailing how the money will be spent. The Department then reviews the application, and the Minister decides whether to release funds. Such processes derive from the *Indian* Act and other legislation, and ensure that the federal government meets its fiduciary obligations toward First Nations. The courts have confirmed these obligations, which require the Department to ensure that resources and funds are managed in the best interests of the First Nation. Failure to fulfil these obligations correctly can lead to costly lawsuits.
- 9.45 Some of the First Nations we visited regard Indian and Northern Affairs' role in the management of on-reserve natural and financial resources as an important safeguard. However, several First Nations consider the Department's approach too slow, too short term, and on some occasions, poorly administered.
- 9.46 For example, the Department's procedures for the leasing and designation of land lengthened the project approval process significantly for one First Nation we visited (Exhibit 9.2).
- 9.47 Another First Nation described how a range of legal and administrative problems has restricted use of its reserve lands. For one, the *Indian Act* does not specify how interests in land shall be transferred to multiple owners. Also, over the past 50 years, Indian and Northern Affairs has changed its filing systems for registering lands and introduced errors into the First Nation's registrations. It has also changed policies that affected interests in the land. As a result, many lots on the First Nation's lands have no road access or have several owners who must agree on the use of the land; some of whom cannot be identified or located readily. As well, with applications to subdivide lots growing, the large backlog of surveys likely will increase.
- **9.48** In this case, the federal government and the First Nation have recognized these problems for several years. The parties need to collaborate to establish a mechanism and a timetable to resolve the issues.
- 9.49 First Nations told us that resources are lacking to build institutional arrangements in a timely way. Some First Nations we visited told us that the federal government offers little support for institutional arrangements in the early stages of economic development. Because their own resources are

limited, First Nations often can put appropriate institutional arrangements in place only after significant development has occurred.

9.50 For example, one First Nation told us that leases covering a substantial proportion of the community's reserve land were negotiated on a case-by-case basis by Indian and Northern Affairs. At the time, there were no institutional arrangements in place for planning, tax assessment, or dispute resolution. With no consistent rules, the First Nation has become involved in costly

Exhibit 9.2 The investment approval process is a barrier to doing business on reserves

In 1999, the Indian Taxation Advisory Board and Indian and Northern Affairs Canada commissioned a study by Fiscal Realities Economists, a British Columbia research firm, on the barriers to doing business on reserves. The study compared the investment approval process for four First Nations projects with similar projects in adjacent, non-Aboriginal jurisdictions.

In each case, the study reported that it took significantly longer to approve the project on First Nations lands. There was some variation in the causes, but there were a number of consistent issues:

- implementation of Indian and Northern Affairs Canada's fiduciary obligations, resulting in risk-averse decision-making and lengthy approval times,
- jurisdictional conflicts and differences in regulation in adjacent jurisdictions,
- · a lack of administrative capacity within First Nations,
- · incomplete separation of politics and administration,
- physical infrastructure unable to meet the needs of business,
- First Nations' uncertainty about public revenues and access to capital,
- · inadequate information for investors about opportunities, and
- poor connections between First Nations and business communities.

One example was a property development that occurred in the early 1990s on the lands of one of the First Nations we visited. The study provided a timeline of the development on the First Nation's reserve compared with a neighbouring non-Aboriginal community.*

Project phase	Off-reserve development (months)	First Nation development (months)
Project initiation	7.3	3.0
Designation	5.2	18.0
Leasing	5.7	18.0
Financing	2.0	12.0
Service agreements	2.4	0.0
Construction	7.8	12.0
Total	30.4	63.0

^{*}We did not reconfirm the analysis of the project undertaken by Fiscal Realities Economists.

Source: Fiscal Realities Economists, Expanding Commercial Activity on First Nation Lands: Lowering the Costs of Doing Business on Reserve, November 1999.

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disputes with leaseholders. As money becomes available from lease payments, the First Nation builds institutional arrangements that enable it to plan the location of buildings, to develop the necessary infrastructure (such as water, sewer, and power), to manage the leases, to assess and collect property taxes, and to manage issues that may arise with leaseholders or tenants.

9.51 The First Nations acknowledged that they need to use some of their own revenues to establish and uphold institutional arrangements that support their economic development. However, they noted that they require assistance particularly to manage the early stages of development. The First Nations were also concerned that they not be penalized for achieving economic success by losing federal funding as their own revenues begin to grow.

Good institutional practices

9.52 The First Nations we visited told us that institutional arrangements reduced barriers to their economic development and provided greater certainty for investors. They have developed several good practices that help them to identify and implement appropriate institutional arrangements that increase stability and reduce costs in their economic activities.

A clear vision

- 9.53 Each First Nation we visited has a clear vision of its economic development. Some are formally written; others are expressed verbally by the First Nation's leaders.
- 9.54 The First Nations' visions guide their decisions on which economic opportunities to pursue. The First Nations help entrepreneurs establish private businesses, but they also pursue economic development on behalf of the entire First Nation by establishing community-owned enterprises. Government support helps them do so.
- **9.55** The First Nations pursue opportunities on- and off-reserve, and consequently are involved in a wide range of industries, including forestry, oil and gas, fishing, tourism, agriculture, gaming, communications, new technologies, construction, trucking, retail, and aviation.

Separating political processes from government administration and business management

- 9.56 The First Nations we visited recognized that politics, government administration, and business management must have a degree of insulation from each other to provide the necessary stability for economic development. For them, the role of political organizations and processes is to set strategic direction. The role of government or the public service is to develop, regulate, and enforce a framework for economic activity that encourages investment and sustainable businesses. The role of business management is to grow businesses within that framework.
- **9.57** Achieving appropriate separations among business, administration, and politics is a particular challenge for First Nations because they often have a limited leadership pool due to their small population, and because they

often pursue economic opportunity through collective means, such as community-owned businesses. The First Nations we talked to have developed a range of mechanisms that establish such separation. For example:

- Documented roles and responsibilities that separate strategic and political roles from day-to-day government administration and business management.
- · Procedures to identify and manage possible conflicts of interest.
- Procedures to hire and promote staff based on merit and qualifications.
- Agreements to keep existing management in place for several years when purchasing businesses.
- Boards that include members other than the Chief or councillors of the First Nation. These members may be elected, or they may be other members of the First Nation, or non-Aboriginals with business experience. The board's voting procedures may ensure that the non-political members have a significant voice.

Focussing on sustaining businesses

9.58 When First Nations own businesses, there is often an internal tension over using income from the business to reinvest and grow the business, or returning it to the First Nation to support other critical needs, such as housing or social services. Several of the First Nations we visited addressed this problem by establishing policies on how business income or other investments are to be managed. These policies usually state that income or profits from businesses and investment must be used first to sustain the business. Income from the business is returned to the First Nation for other needs only once sustainability of the business is assured.

Measuring progress toward goals

9.59 One First Nation's long-term strategic plan documents its goals and performance measures to gauge progress toward those goals. Another is beginning to develop a comprehensive framework that will measure community performance, which might include income and employment levels

Partnering to develop institutional arrangements

9.60 Some of the First Nations we visited partnered with other communities to establish institutional arrangements that serve their economic development. In several cases, either the tribal council or regional government managed the institutional arrangements on behalf of the member First Nations. In another instance, several First Nations established a joint organization that was separate from the regional political structure to undertake particular economic development roles. Some First Nations also reached agreements with non-Aboriginal organizations operating in neighbouring communities to extend their responsibilities to include the economic activities of the First Nations.

- **9.61** While these partnerships must balance economies of scale with meeting the different objectives and interests of individual First Nations, communities we visited saw several benefits from working together. The benefits included
 - shared costs, which in some cases permit First Nations to operate institutional arrangements that they could not afford otherwise;
 - improved access to expertise;
 - the ability to benefit from the experience of others;
 - · access to larger pools of capital; and
 - the ability to identify and pursue larger-scale opportunities, often off-reserve.

Managing economic development through institutional arrangements

- **9.62** The First Nations we visited have developed many institutional arrangements that make use of the good practices described above. The following paragraphs describe the institutional arrangements that two First Nations have adopted to manage their different economic opportunities, provide certainty, and reduce the impact of barriers.
- 9.63 One First Nation established a comprehensive set of institutional arrangements for economic development through its self-government arrangements. Its major economic development activities are in natural resources. The First Nation created laws and regulations governing land, forest resources, fisheries, and wildlife. The First Nation government created departments to manage each of these resource areas. The departments include planning, and where appropriate, issuing permits and licences. Administration staff are hired and managed according to written policies. Co-management committees with provincial and federal governments tend to the broader management of resources. The First Nation administration also operates an economic development department that helps member communities and individuals access business support programs to establish and operate businesses. An independent tribunal reviews decisions made by the administration.
- 9.64 The major economic activities of another First Nation are agriculture, property development, and community-owned businesses, many of which are located off-reserve. The First Nation and several neighbouring First Nations jointly own some of the businesses through a development corporation established by the tribal council. The First Nation owns others directly. First Nation-appointed managers run those businesses. The corporations report to the economic development department of the First Nation administration, which reports in turn to the economic development commission, headed by the Chief. The economic development department also provides financial assistance and advisory services to individual band members. The First Nation's public service commission hires and manages staff according to written policies. The First Nation has its own vision statement, but the tribal council developed the economic development plan. The tribal council also supplies economic development and sectoral advisory services to the First Nation.

Business support programs have assisted many successful enterprises

- Several First Nations we visited described examples of successful economic activities and businesses that had been started with, expanded, or otherwise assisted by funds from the federal government's business support programs. The First Nations stated that the program funding was essential to their economic development.
- The businesses ranged from individual owner-operator businesses that received a few thousand dollars to major businesses in which federal organizations invested \$500,000 or more. The First Nations added to those federal contributions and then used the funds to leverage bank loans of several million dollars. The larger federal contributions allowed the First Nations to acquire businesses with revenues in the tens of millions of dollars. Such businesses hold out the prospect of sustainable jobs and substantial profits, some of which could be returned to the First Nations to support other activities.

Federal organizations provide some support for First Nations institutional arrangements

- To some degree, federal organizations have recognized the importance and value of institutional arrangements in sustaining economic development. The establishment of the Community Economic Development Program in 1989 to provide stable annual funding to First Nations was an initial step toward institutional development, rather than exclusively project-based, funding. First Nations indicated that the community economic development organizations funded by the program are important for achieving economic development and for supporting community development more broadly.
- More recently, federal organizations, on a sectoral basis, have recognized that they can reduce the burden imposed by the federal management of First Nations resources by helping the First Nations to develop institutional arrangements through which they can manage resources themselves. Properly designed institutional arrangements can overcome concerns about transparency, accountability, or potential misallocation of resources. These sectoral initiatives include the following:
 - The Aboriginal Fisheries Strategy through which Fisheries and Oceans Canada has facilitated, since 1992, the development of institutional arrangements by supporting Aboriginal participation in co-operative management of the fisheries in which they participate.
 - The First Nations Land Management Act, enacted in 1999, which enables First Nations to opt to take responsibility for managing reserve land, rather than having it managed by Indian and Northern Affairs under the Indian Act.
 - Mechanisms being developed by Indian and Northern Affairs to enable First Nations with substantial oil and gas development opportunities on-reserve to opt to manage those developments directly.

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Opportunities to improve support

A more consolidated approach to business support is needed

- 9.69 The 1989 Canadian Aboriginal Economic Development Strategy remains the authority for many of the business support programs of the departments of Indian and Northern Affairs and Industry. The strategy sought to consolidate support for Aboriginal economic development into fewer programs that could be applied more broadly and would have standardized terms and conditions to improve clarity and reduce duplication.
- 9.70 We audited the Strategy in 1993. Our 1993 Report, Chapter 11, Canadian Aboriginal Economic Development Strategy, found a need for leadership to develop partnerships within the federal government and between the federal government and Aboriginal stakeholders. It also found that there was a lack of appropriate performance information and that the departments of Indian and Northern Affairs, Industry, and (then) Employment and Immigration could not demonstrate that their funding methods and amounts were appropriate. In response to the audit, the departments agreed to review their approach, while emphasizing the need for local control by their Aboriginal clients, in order to respond to local needs.
- **9.71** Instead of consolidating, as envisaged by the Strategy, programs with a business support component have increased from 3 to 10 since 1989. This expansion of programs was not undertaken in a strategic and co-ordinated manner, nor did it deliver control to the First Nations. The results are an administrative burden for First Nations and federal agencies, risks of inconsistent treatment, including service standards that are not monitored in all regions, and lost opportunities.
- 9.72 To manage these programs, officials in the regional offices of federal organizations developed mechanisms to enable them to work together to support large and complex projects. More recently, Indian and Northern Affairs has begun to manage three of its programs under one set of guidelines, forms, and administrative procedures. As well, officials told us that Indian and Northern Affairs and Industry have discussed consolidating some of their business support programming.
- **9.73** While they represent steps in the right direction, these initiatives do not yet fully reflect the goals of the Canadian Aboriginal Economic Development Strategy, which are to deliver fewer programs with broader applications.
- **9.74 Recommendation.** Indian and Northern Affairs Canada, Industry Canada, and regional federal organizations should consolidate the administrative requirements and improve the adaptability of their business support programs for First Nations so that they can respond to large, complex, multi-purpose projects.

Departments' response. Indian and Northern Affairs Canada will consolidate its economic development programs and improve their adaptability. Indian and Northern Affairs Canada and Industry Canada will harmonize the administrative requirements in their small business support programs to simplify business development in First Nations communities. To

address the needs of large, complex, multi-purpose projects, Indian and Northern Affairs Canada, Industry Canada and federal regional economic development agencies will develop, on a regional basis, measures to harmonize administration requirements and to improve adaptability to needs.

A more proactive approach to institutional development is needed

- As First Nations found ways to develop, they encouraged federal organizations to find ways to support more flexible and appropriate institutional arrangements. For example:
 - The First Nations Land Management Act resulted from 14 initial signatory First Nations working to strengthen control over their land.
 - The initiative to modify oil and gas resource management came from some First Nations with significant deposits developing mechanisms to bypass the restrictions imposed by the Indian Oil and Gas Act.
 - Institutional development identified by First Nations for regional or resource-based economic opportunities obtained support on a project basis from Indian and Northern Affairs Canada's Resource Access Negotiations Program, Resources Partnership Program, or Regional Partnerships Fund.
- However, gaps remain, particularly in the basic institutional arrangements that serve as a springboard for First Nations to access institutional arrangements by sector. We noted earlier that First Nations benefit when they can pursue a coherent economic development vision, identify and establish appropriate institutional arrangements in advance of development, and identify opportunities for which they can then apply to the federal government's project-based economic development programs.
- These steps require planning. However, resources for planning are fragmented. Individual federal programs include resources for planning only for their sector. The Community Economic Development Program was intended to help First Nations with overall development planning, but it also has several other objectives, including providing advisory services and support for employment, business development, and resource development. Because funding under the program is based on population, smaller First Nations find it difficult to implement all the program's objectives. Short-term demands to develop funding proposals or negotiate agreements can be the priority. These problems can be mitigated somewhat when First Nations partner with each other to develop institutional arrangements (Exhibit 9.3).
- Much of the funding for basic institutional development is based on formulas that reflect historical circumstances rather than a First Nation's plans or future needs. For example, funding for land management is based on the number of past transactions and some institutional development funding is based on formulas that were established in the late 1980s. Moreover, Indian and Northern Affairs froze funding levels in the mid-1990s, and has only begun recently to increase them.

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Exhibit 9.3 National Aboriginal organizations assist First Nations economic development

Our study focusses mainly on institutional arrangements at the local and regional level. However, there are a number of national Aboriginal organizations that assist First Nations economic development, for example, the National Aboriginal Capital Corporation Association. Many of these organizations have been established or supported by federal government funding.

The head of one national organization explained the benefits of such organizations to First Nations and to the federal government.

- They allow First Nations to develop consensus on national standards for administrative practices and regulation, which reduces the possibility of creating additional barriers to economic development.
- They improve certainty and equity of treatment among First Nations.
- They improve communications and the flow of information among First Nations and between First Nations, the federal government, and investors.
- They foster the development of specific types of expertise that can be used by all First Nations.

At the time of our study, the Minister of Indian and Northern Affairs tabled an act to create four new national Aboriginal organizations (First Nations Tax Commission, First Nations Financial Management Board, First Nations Finance Authority, and First Nations Statistical Institute). Developed in co-operation with First Nations, the act aims to "provide needed tools for economic development and improving the quality of life on reserves."

- **9.79** Other funding is available only on a short-term basis and does not provide sufficient stability for effective institution-building.
- **9.80** Federal policy allows for extra funding for institution-building once a self-government agreement is negotiated. However, the need for institutional arrangements can arise from economic opportunities that emerge before self-government agreements are completed.
- **9.81** Given the need for economic development, the importance of appropriate institutional arrangements to effective economic development, the interest of First Nations in developing those arrangements, and the governmental nature of institutional arrangements, the federal government needs to take a more proactive approach to developing these arrangements.
- **9.82** Recommendation. The federal government should support First Nations in identifying, planning, and implementing institutional arrangements that take advantage of economics of scale where possible, and that are appropriate to the First Nations' economic development circumstances and visions.

Departments' response. Indian and Northern Affairs Canada will redesign its Community Economic Development Program to support First Nations to identify, plan, and implement economic development organizations that take advantage of economies of scale where possible and that are appropriate to the First Nations' economic development circumstances and visions. It will

evaluate the Resource Access Negotiations Program and the Resource Partnership Program to determine ways in which these programs could strengthen institutional arrangements of First Nations.

Fisheries and Oceans Canada announced the Aboriginal Aquatic Resource and Oceans Management Program on 9 October 2003. This program may provide funding to Aboriginal groups that come together on a watershed or ecosystem basis to establish an aquatic resource management body. The program will enable these bodies to obtain access to skilled personnel and related support that will allow them to participate effectively in decision-making and advisory processes used for aquatic resource and oceans management. The Aboriginal Aquatic Resource and Oceans Management Program uses a differentiated, community-driven approach recognizing that different groups are at different stages of development and that needs and priorities vary from group to group. The program will be available in areas where Fisheries and Oceans Canada manages the fishery.

A more horizontal, First Nations approach to performance information is needed

- 9.83 Supporting First Nations institutional arrangements for economic development is a horizontal policy issue: it is a government-wide priority. It spans departmental mandates, and no department has all the levers, resources, and expertise to manage it alone. However, strategic co-ordination of economic development programming has long been a challenge. This is reflected in the proliferation of programs and performance information, and in the comments of senior officials.
- 9.84 Federal organizations can strengthen the horizontal management of their First Nations economic development programs through improved performance information. In our December 2000 Report, Chapter 20, Managing Departments for Results and Managing Horizontal Issues for Results, we proposed a framework for managing horizontal issues. Four of the five elements of the framework related to the development and use of performance information. Federal organizations need to
 - agree on common objectives, results, and strategies;
 - measure results to track performance;
 - · use information to improve performance; and
 - · effectively report performance.
- 9.85 Performance information is not focussed on outcomes in the community. As we reported in our December 2002 Report, Chapter 1, Streamlining First Nations Reporting to Federal Organizations, federal organizations collect large quantities of data from First Nations on the operations of their economic development programs. However, an important disconnect exists between the types of performance information that the First Nations we visited indicated is important to them, and the kinds of data that federal organizations collect. In general, First Nations are interested in outcomes-based information. They are concerned with measures of the well-being of their First Nations, including their socio-economic

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circumstances compared with surrounding, non-Aboriginal communities, and the sustainability of jobs. Federal organizations, in contrast, generally collect activity- and output-based information, such as the number of projects supported or business plans submitted. One consequence, argue the First Nations, is that the federal government does not help sustain businesses started with federal assistance.

- 9.86 Federal government policy recognizes that it is not enough to help Aboriginal individuals improve their circumstances, but that there is a need also to improve the economic circumstances of First Nations as communities. To develop a performance reporting system that meets this policy and the criteria proposed in our 2002 Report, federal organizations need to work with First Nations to establish appropriate objectives and measures.
- 9.87 Current review processes offer opportunities to improve performance information. At the time of this study, federal organizations were conducting reviews of their economic development programs to meet the requirements of the Treasury Board's policy on transfer payments. Several of the reviews included consultations with First Nations. Through the review processes, federal organizations were obtaining improved and up-to-date information about the effectiveness of programs. However, some of the reviews completed at the time of our study noted weaknesses in federal organizations' performance management systems for economic development programs. The results of the reviews may assist with the Treasury Board's renewal of the terms and conditions of the programs, including the redesign of results-based management and accountability frameworks.
- 9.88 The review and renewal process is an opportunity to improve horizontal management of economic development programs by developing common performance information frameworks. Chapter 20 of our 2000 Report recognized that developing common performance information across organizations takes time and effort. However, the renewal process is an opportune time to make such an investment. Focusing on the performance information that First Nations consider useful may assist federal organizations in finding common ground. Federal organizations need to avoid recreating the current structure of stove-pipe programs, each with its own authorities, priorities, terms, conditions, and performance information.
- 9.89 Indian and Northern Affairs Canada is the lead agency in the federal government for First Nations economic development. It took the opportunity afforded by the review and renewal process to redesign its entire departmental results framework. The new framework realigns its objectives and activities and identifies several results areas, including economic development. The Department also recognized the benefits to identifying performance measures for this framework that are meaningful to First Nations and that are integrated with other federal organizations. At the time of the study, senior management had approved the framework; however, the Department had not yet discussed appropriate performance information with First Nations and other federal organizations.

Recommendation. Under the leadership of Indian and Northern Affairs Canada, federal organizations should develop horizontal performance information for economic development programming that is outcomefocussed and relevant to the performance information needs of First Nations.

Departments' response. Federal organizations agree to the need for horizontal performance information for economic development programming that is outcome-based and relevant to the performance information needs of First Nations. However, the need for this information should not add to the response burden related to federal programming already imposed on First Nations. Furthermore, it should not preclude federal departments from obtaining information needed to assess the performance of specific programs in order to fulfil their mandates and report to Parliament.

Parliament is currently considering the establishment of the First Nation Statistical Institute to provide information on, and analysis of, the fiscal, economic, and social conditions of First Nations. The federal government expects the Institute will produce economic performance information that is outcome-focussed and relevant to the performance needs of First Nations.

Indian and Northern Affairs Canada will review reporting requirements under all programs, including horizontal reporting requirements under the Community Economic Development Program, with a view to simplifying and reducing First Nations reporting.

A way forward

First Nations have a major responsibility

- The major responsibility for their economic development rests with First Nations. The First Nations we visited have a vision of their development and have begun to build the institutional arrangements that can sustain their economic activities. They also have been willing to invest their own resources in pursuing that vision and developing such arrangements. Theirs is a responsible approach that recognizes that economic development must be sustainable over the long term and will be so only with consistent and fair rules.
- The First Nations we visited have tended to be outward-looking. In 9.92 addition to maximizing the economic development opportunities that are available on-reserve, they created partnerships, pursued resources, and joined forces with public and private sectors outside the First Nations.

Federal organizations can provide important help

- Because of its constitutional and legislative responsibilities for First Nations, the federal government will remain a key contributor to their economic development. However, federal organizations need to fulfill their responsibilities in ways that support First Nations taking control of their economic development. There are three approaches they can take—some are already in use, but need more emphasis:
 - Support First Nations in managing their own economic affairs through appropriate institutional arrangements. This requires an approach that both creates incentives for and assists First Nations to work together to

- develop organizations, rules, and practices that take advantage of economies of scale and that enable them to manage their resources and economic development.
- Build institutional arrangements in a timely way to play a part in the management of resources and to establish consistent and fair rules in advance of economic development opportunities.
- Use an approach that varies according to circumstances for economic development programming. The framework needs to recognize the diversity of First Nations and move away from "one size fits all" programming, funding, and performance information. The framework needs an adaptable approach that responds to needs and priorities as determined by the First Nations.
- **9.94** Based on these three approaches, we developed the following criteria to test economic development programs. Federal support for First Nations economic development needs to
 - be consistent with federal government objectives, priorities, and policies;
 - · support needs identified by First Nations;
 - be developed in consultation with First Nations and be useful to them in managing their own affairs;
 - be comprehensive and integrated;
 - be managed horizontally both within and outside the federal government;
 - be delivered in a timely and efficient manner, using reasonable and agreed-upon service standards;
 - support sustainable activities;
 - · be based on results; and
 - ensure accountability to First Nations and to the federal government.

Other sectors can also help

- 9.95 The First Nations we visited explained that several policies pursued by provincial governments have helped their economic development. The First Nations also emphasized the benefits they received from positive relationships with the private sector. Joint ventures were valuable as they resulted in the transfer of substantial expertise to First Nations.
- 9.96 However, First Nations felt the need for a further change in attitude from those groups. They want the provinces and private sector to recognize that First Nations are a continuing presence in local and regional economies, with whom they should engage more regularly and over the longer term.

Conclusion

- 9.97 This study explored the institutional arrangements that selected First Nations use to promote and manage their economic development and some key elements of the support that federal organizations provide. First Nations need economic development but face barriers that increase their costs of doing business and impede their development.
- **9.98** While each is unique in many ways, the First Nations visited for this study are considered to be well-governed and proactive. They use several good practices in their institutional arrangements to help overcome these barriers.
- 9.99 The federal government is a key contributor to First Nations economic development through its programs and regulatory functions. However, some federal practices contribute to the barriers, and other federal support for First Nations institutional arrangements that support economic development is not yet sufficient. Federal organizations need to rethink how they support First Nations in overcoming barriers and taking control of their economic development. In particular, federal organizations need to consolidate the administration of business support programs and make them more adaptable, help First Nations identify and build institutional arrangements in a timely way, and use a more horizontal approach for economic development programming.
- **9.100** To assist federal organizations in rethinking their approach, the study proposes some criteria for assessing federal economic development programs.

About the Study

Objectives

The objectives of the study were to describe and analyze

- how the institutional arrangements for economic development of selected First Nations contribute to their economic development and their need for federal support, and
- how the federal government provides support for First Nations institutional arrangements for economic development.

Scope and approach

The Auditor General is not the auditor of First Nations. Our mandate is to audit federal departments, agencies, and Crown corporations that support First Nations. In this study we needed the co-operation of First Nations to learn about their institutional arrangements for economic development, the role of those arrangements, and their relationship to the federal government.

To carry out our study, we sought the assistance of 13 First Nations and 4 tribal councils and governments in 5 provinces. Of these, 3 First Nations were self-governing and 5 were in self-government negotiations. We examined their institutional arrangements for economic development and the support provided by the federal government.

The federal organizations included in the study were

- · Indian and Northern Affairs Canada.
- Industry Canada,
- · Fisheries and Oceans Canada.
- Western Economic Diversification Canada,
- · Canada Economic Development for Quebec Regions,
- Atlantic Canada Opportunities Agency,
- Enterprise Cape Breton Corporation,
- Cape Breton Growth Fund Corporation, and
- · Indian Oil and Gas Canada.

The study is not intended to provide a comprehensive review of First Nations institutional arrangements for economic development. We did not include provincial governments, the private sector, and Aboriginal organizations that operate off-reserve. Other federal agencies, such as Human Resources Development Canada, that also play a role were excluded.

We developed the following lines of inquiry for the study:

- identify the institutional arrangements for economic development in the selected First Nations,
- · explore how the institutional arrangements assist the economic development of the selected First Nations, and
- · explore how the federal government provides support to First Nations institutional arrangements.

Study team

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Appendix A Federal Aborigical - must be distributed and the distri

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		Type	Type of support	2003-04	
Department	Program	Business	Institutional	Budget (\$ millions)	Description
Indian and Northern Affairs Canada	Community Economic Development Program		>	47.8	Provides funding for staffing and overhead costs of community economic development organizations that are the delivery agents within First Nations for Indian and Northern Affairs Canada, Industry Canada, and Human Resources Development Canada programming. As well, program funding can be used to provide equity for businesses, employment, and job related training. Its goal is to generate long-term employment and business development opportunities for First Nations by enhancing their ability to manage skill development programs, institutional arrangements for economic development, and business enterprises.
Indian and Northern Affairs Canada	Economic Development Opportunity Fund	>		10.0	Provides equity funding to enable First Nations, Innu, and Inuit businesses to leverage conventional debt financing for business start-up or expansion on- and off-reserve. The funding is to complete the financing package with an equity contribution where no other financing can be obtained. The Department's contribution cannot exceed \$500,000 or the amount contributed by the applicant.
Indian and Northern Affairs Canada	Resource Partnerships Program	>	>	11.0	Provides financial support to First Nations, Innu, and Inuit governments, organizations, and businesses to form partnerships with provincial/territorial governments and/or the private sector to participate in the planning of, and obtain economic benefits from, major regional resource development projects. The projects must be large-scale and multi-party in nature to qualify. Activities are focussed on natural resources, but can also include human resource development. The program also supports the design, development, and ongoing operation of multi-party economic development partnerships that include First Nations. Total federal government funding cannot exceed 50 percent of the total cost of eligible activities, with the exception of early strategic planning (which may be funded up to 90 percent).
Indian and Northern Affairs Canada	Resource Access Negotiations Program		>	10.0	Assists First Nation and Inuit communities to obtain technical expertise to carry out negotiations leading to agreements that enhance employment, business, and other economic benefits from major resource-based opportunities on- or off-reserve. Maximum departmental funding is limited to a proportion of project costs related to the benefit accruing to First Nations.

Economic development programs (continued)

Amount of the last					
		Type o	Type of support	2003-04	
Department	Program	Business	Institutional	(\$ millions)	Description
Indian and Northern Affairs Canada	Resources Acquisition Initiative	>	>	3.0	Provides equity funding to help First Nations, Innu, and Inuit businesses to pursue resource-based and related projects on- and off-reserve, as well as funding activities such as acquiring licences or permits granting access to resources. The objective is to enable the proponent to leverage conventional debt financing for the project. The funding is to complete the financing package with an equity contribution where no other financing can be obtained.
Indian and Northern Affairs Canada	Major Business Projects Program	>		10.0	Provides First Nation, Innu, and Inuit businesses with equity funding to allow them to leverage conventional debt financing for start-up or expansion of major industrial, commercial, or resource-based projects, costing over \$2 million, on- or off-reserve. The Department's contribution must be between \$500,000 and \$3 million and may not exceed the proponent's equity contribution.
Indian and Northern Affairs Canada	Regional Partnerships Fund	>	>	19.0	Designed to secure First Nation and Inuit participation in, and expand economic benefits from, major regional economic infrastructure projects. Partnerships must include non-federal partners with a preference for private sector participation. Priority is given to regional projects with benefits for two or more First Nations. The Department's contribution will not exceed 66 percent of total project value.
Indian and Morthern Affairs Canada Industry Canada	First Nations Component of the Infrastructure Canada Program	>		21.6 (31.0 over 3 years 2001-04)	Provides cost-shared funding for physical capital infrastructure projects on-reserve (and in the Yukon). Half the funds are targeted at "green" infrastructure projects that include improving the quality of water and wastewater systems, solid waste management, and flood control. Secondary priorities include other infrastructure projects that meet such needs as better local transportation and tourism development. Some of these activities support economic development. For green projects, First Nations are normally required to provide at least one sixth of the project cost. One third would come from Infrastructure Canada, and up to 50 percent from Indian and Northern Affairs Canada. For other projects, First Nations are normally required to provide at least one third of the project cost. One third would come from Infrastructure Canada, and one third from Indian and Northern Affairs funding.

Economic development programs (continued)

		Type of	Type of support	2003-04	
Department	Program	Business	Institutional	(\$ millions)	Description
Industry Canada	Aboriginal Business Canada	>		38.2	Supports innovation, trade and market expansion, tourism, youth entrepreneurship development, and strengthening Aboriginal financial and business development organizations. Provides financial assistance, information, resource materials, and referrals to other possible sources of financing or business support to new and existing entities, including Aboriginal Capital Corporations and Youth Business Initiatives. The maximum federal contribution varies from 40 percent to 75 percent of project costs.
Indian and Northern Affairs Canada	Marshall Response Initiative	>	, >	30.3	In 2001, the federal government launched its long-term response to the Marshall decision. The Department's portion of the Marshall Response Initiative addresses broader issues relating to Aboriginal fishing that cannot be dealt with in the Fisheries and Oceans Canada response. In addition to funding a Mi'Kmaq and Maliseet Treaty Commission and research and negotiation for the First Nations, the Department also funds land additions to reserves, co-operative management structures for parks and environment, and economic development/diversification projects (such as recreational fishing lodges, eco-tourism initiatives, and acquisition of retail fish outlets), and related capacity building.

Fisheries management programs

		Type of	ype of support		
Department	Program	Business	Institutional	Budget (\$ millions)	Description
Fisheries and Oceans Canada	Aboriginal Fisheries Strategy	>	>	35.2 (2003-04)	Provides management and regulation of fishing by Aboriginal communities through negotiation of mutually acceptable and time-limited fisheries agreements between the Department and Aboriginal groups. On average, approximately 125 agreements are signed annually covering 235 Aboriginal communities. The program applies where the Department manages the fishery and where land claim settlements are not in place. • Fisheries agreements related in particular to food, social, and ceremonial fisheries, which include negotiated, time-limited harvest plans that are fished under a communal licence. Strategy agreements may also contain co-operative arrangements for the management of the Aboriginal fishery by the group and Fisheries and Oceans Canada, such as stock assessments and fish habitat enhancement projects. The agreements may also provide for access to commercial fisheries under the Allocation Transfer Program. • Allocation Transfer Program, which facilitates voluntary retirement of existing commercial licences and the issuance of communal commercial licences to eligible Aboriginal groups in a manner that does not add to existing effort on the resource.
Fisheries and Oceans Canada	Marshall Response Initiative	>	>	325.2 (total for 1999-00 to 2004- 05).	In response to the Supreme Court's judgement in <i>R. v. Marshall</i> , Fisheries and Oceans Canada launched the Marshall Response Initiative. Under the Initiative, Fisheries and Oceans Canada negotiates agreements with affected First Nations to increase their access to the fisheries, develop their fishing capacity, and build a new framework for management of First Nation fishing, working together with the communities. The agreements may include • access through a voluntary licence retirement program; • purchase/construction of vessels and gear; • training in navigation, seamanship, and sustainable fishing; • start-up assistance for harbour and resource management; and • wharf and fishing infrastructure construction. The Initiative is time-limited. Affected First Nations have until 31 March 2004 to sign agreements. Delivery of the Initiative ends on 31 March 2006.

Appendix B Federal management regimes for First Kalkara resummer

Resource	Regime	Description
Land	Land management (Indian and Northern Affairs Canada)	Under various sections of the <i>Indian Act</i> , the Minister of Indian and Northern Affairs has authority to make regulations, policies, and practices and to enforce those regulations related to reserve land administration and management. The Minister's duties include • preparing reserve surrenders, designations, and expropriations transactions; • managing proposed additions to reserve; • reviewing and approving land transactions and individual land holding allotments within First Nations; • negotiating, preparing, executing, and monitoring leases, licences, and permits to non-Indians on reserve; • providing advisory services, and managing and distributing funding to organizations that deliver land management transactions on behalf of the Minister; • co-ordinating, developing, and funding land management training; and • co-ordinating federal initiatives that relate to land management. The Minister seeks the consent of First Nations in all transactions. All proceeds from land transactions are received, retained, and managed by the Minister in trust for the First Nation.
	Regional Lands Administration Program	Under this regime, First Nations staff participate in the delivery of land management and administration with Indian and Northern Affairs staff. Although First Nations staff are trained in land management and to administer transactions, there is no delegation of authority and accountability remains with the Minister. Under this program, First Nations staff may negotiate, monitor, and ensure compliance of the use and occupancy of reserve lands under lease or permit; prepare and process individual land holding or interest transactions; and
	Land Management Delegation Program (sections 53 and 60 of the <i>Indian Act</i>)	Under sections 53 and 60 of the <i>Indian Act</i> , a band may opt to exercise control and management over reserve lands. The band may approve allotments and other transactions among band members and sign leases and other agreements on behalf of the Minister. Under section 81(1), bands have authority to make by-laws on the survey and allotment of reserve lands for both common and individual band member use to the extent granted under section 60. However, under this delegation, all federal legislation, regulations, and departmental policies continue to apply, including the requirements for environmental assessment when applicable. Band councils have regulatory and taxing powers over designated lands that have been leased for development purposes.
	First Nations Land Management Act	Under the <i>First Nations Land Management Act</i> , authority over reserve land and associated natural resources and revenues is transferred to the <i>First</i> Nation. The <i>First</i> Nation must first adopt a comprehensive land code and agreement with the federal government, ratified by a vote by the <i>First</i> Nation. Under the transfer, the <i>First</i> Nation must have mechanisms to properly manage the lands as well as several good governance arrangements in place, including conflict of interest rules, alternate dispute resolution mechanisms, environmental assessment and protection regimes, and rules and procedures relating to matrimonial real property. The transfer empowers the <i>First</i> Nation to enact and enforce its own laws. The transfer also enables the <i>First</i> Nation to develop land use and management plans to suit its development priorities. Under the regime, <i>First</i> Nations do not have authority to sell reserve land but land exchanges are possible. Where there is inconsistency or conflict between the <i>Act</i> and other federal laws, the <i>Act</i> prevails. All decisions of band councils are subject to judicial review under the <i>Federal Court Act</i> .

Resource	Regime	Describant
Oil and gay	Iriginal Oil and Gas Act and Regulations	Established in 1987, Indian Oil and Gas Canada operates under the <i>Indian Oil and</i> Gas Aut and Regulations and reports to the Assistant Deputy Minister, Lands and Trust Services of Indian and Northern Affairs. It manages and administers the exproration, development, and production of oil and gas on reserve through a regulatory regime last updated in 1995. Working with First Nations, it provides technical information, advice, and such services as
		verifying title ownership.
		ensuring that environmental assessments take place,
		 negotiating the lease of surface and subsurface rights,
		 documenting and administering contracts,
		 making assessments for lease continuance or expiry, and
		 enforcing reservoir production compliance and royalty collection.
		The regulatory regime provides for employment of First Nation residents for oil and gas exploration and development activities on reserve, where practicable and reasonably efficient, safe, and economical to do so. The regulations also ensure greater First Nations involvement in the management of oil and gas resources on reserves.
Forests	Indian forestry regulations	The Indian Timber Regulations and the Indian Timber Harvesting Regulations are enacted under the <i>Indian Act</i> to control and manage the timber resource on reserves and to enforce the laws, regulations, and policies that apply to it. Under the regulations, the Minister controls the granting of licences and permits (with band consent), the imposition of fees, ground rents and deposits, the obligations for record keeping, fire protection and conservation, and the exercise of seizure and imposition of penalties.
Sub-surface resources	Indian Act and	The Indian Act and Indian Mining Regulations provide the Minister of Indian and Northern Affairs with authority to control, manage, and enforce the exploitation of sub-surface resources on reserve. This includes the granting of leases and nemits and their terms, imposition of rents, deposits and royalties, the requirements for assessment work, and the
	Indian Mining Regulations	imposition of penalties and sanctions.
Fisheries	Aborginal Fisheries Strategy and Marshall Response Initiative programs	To provide for effective management and regulation of fishing by Aboriginal communities, Fisheries and Oceans Canada has undertaken the Aboriginal Fisheries Strategy and the Marshall Response Initiative. Under the Strategy, the Department negotiates mutually acceptable and time-limited fisheries agreements with Aboriginal groups. The fisheries agreements are related in particular to food, social, and ceremonial fisheries, and include negotiated, time limited harvest plans that are fished under a communal licence. Strategy agreements may also contain arrangements for the co-operative management of the Aboriginal fishery by the Department and the Aboriginal group, for example, stock assessments and fish habitat enhancement projects. The agreements may also provide for access to commercial fisheries.
		Under the Marshall Response Initiative, Fisheries and Oceans Canada negotiates agreements with affected First Nations to increase their access to the fisheries, develop their fishing capacity, and build a new framework for management of First Nations fishing, working together with the communities.

Report of the Auditor General of Canada to the House of Commons—November 2003

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2003



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to the House of Commons

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Chapter 10 Other Audit Observations Appendices







2003



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The November 2003 Report of the Auditor General of Canada comprises ten chapters, Matters of Special Importance -2003, a Foreword, Main Points, and Appendices. The main table of contents is found at the end of this publication.

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Chapter

Other Audit Observations

All of the anda work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadam business of Chartered Accommunes. While the Office adopts these standards as the minimum requirement for our andas, we also draw upon the standards and practices of other disciplines.				
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Other Audit Observations

Main Points

10.1 This chapter fulfills a special role in the Report. Other chapters normally report on value-for-money audits or on audits and studies that relate to operations of the government as a whole. Other Audit Observations discusses specific matters that have come to our attention during our financial and compliance audits of the Public Accounts of Canada, Crown corporations, and other entities, or during our value-for-money audits or audit work to follow up on third-party complaints. Because these observations deal with specific matters, they should not be applied to other related issues or used as a basis for drawing conclusions about matters not examined.

- 10.2 This chapter covers new issues:
 - Indian and Northern Affairs Canada—The Department needs to improve third-party intervention
 - Government purchase of two Challenger aircraft—A \$101-million contract to purchase two Challenger aircraft for VIP travel did not demonstrate due regard for economy and bypassed expected practices
 - Natural Resources Canada—Controls over contribution payments and scientific equipment needed
 - Independent reviews of security and intelligence agencies—The
 activities of security and intelligence agencies are not subject to
 consistent levels of review and disclosure
- 10.3 The Standing Committee on Public Accounts has requested that we continue to bring to Parliament's attention previous observations that have not been resolved. In this Report, we follow up on two of these observations:
 - Parc Downsview Park Inc.—The government has initiated actions to address issues raised in our previous reports about the creation of an urban park
 - The surplus in the Employment Insurance Account—Non-compliance with the intent of the *Employment Insurance Act*

Parc Downsview Park Inc.

The government has initiated actions to address issues raised in our previous reports about the creation of an urban park

In brief

We have reported annually since October 2000 that the Government of Canada has not requested—and accordingly Parliament has not provided—clear and explicit authority to create and operate an urban park being undertaken by Parc Downsview Park Inc. Furthermore, Parliament has not authorized the related spending of public funds.

We also reported on irregularities in the transfer of funds from National Defence for the development of the park and shortcomings in the corporate structure adopted for Downsview Park.

Our follow-up audit revealed that the government has initiated actions to address the issues. Although it did not request Parliament's clear and explicit authority for the creation and operation of Downsview Park, the government has deemed it a parent Crown corporation, and it will now report to Parliament through the responsible minister, currently the Minister of Transport. The government is also addressing the irregularities noted in the transfer of funds from National Defence and the shortcomings in the corporate structure of Downsview Park

Audit objective

10.4 Our audit objective was to follow-up on matters raised about Downsview Park in our previous audit observations and to report on the progress achieved.

Background

10.5 Downsview Park was established following the closure of the Canadian Forces Base in Toronto, announced in the government's 1994 Budget. The only reference to Downsview Park was contained in the National Defence budget impact paper referred to in the 1994 Budget, which indicated that "[the] Downsview site will be held in perpetuity and in trust primarily as a unique urban recreational green space for the enjoyment of future generations."

10.6 In April 1997, the government issued an Order-in-Council authorizing Canada Lands Company Limited to set up a subsidiary corporation to develop an urban park. Canada Lands incorporated Downsview Park as a whollyowned subsidiary Crown corporation in July 1998. Members of the board of directors were officially appointed in February 1999 and Downsview Park began operations in April 1999.

Issues Parliamentary authority

- 10.7 Generally, when a new Crown corporation with unique operating characteristics is established, it receives a mandate from Parliament through legislation establishing a parent Crown corporation. The government chose to set up Downsview Park as a subsidiary of Canada Lands. It then required only an Order-in-Council to authorize the incorporation of Downsview Park.
- 10.8 As we noted in our last three years' reports, except for the payments made by National Defence to Downsview Park for the development of the park site, the government, including Canada Lands, met all applicable administrative and legal requirements in establishing Downsview Park. However, the individual steps taken together had the effect of leaving Parliament out of the decision-making process. The mandate of Downsview Park was not presented to Parliament for review and approval.
- 10.9 The House of Commons Standing Committee on Public Accounts held a hearing on this issue in 2002 and made five recommendations, including one stating that the Privy Council Office should seek parliamentary approval to make Downsview Park a parent corporation.
- 10.10 In its May 2003 response to the Committee's recommendations, the government stated that the corporate structure in place was designed to fulfill its commitment made in Parliament in the 1994 Budget. The government added that the financial accountability for Crown corporations provided in Part X of the *Financial Administration Act* already provides a rigorous means to ensure proper transparency and accountability of Downsview Park, through its parent Crown corporation.
- 10.11 However, on 3 September 2003, the government took action and brought a series of modifications to the legal framework applying to Downsview Park. Among others, an Order-in-Council made all provisions of Part X of the Act apply to Downsview Park as if it were a parent Crown corporation. In essence, Downsview Park remains a wholly owned subsidiary of Canada Lands but will report as if it were a parent Crown corporation. It will, for instance, have its own board of directors and will table its own corporate plan and annual report to Parliament through the responsible minister.
- 10.12 This way, although Parliament did not have the opportunity to formally approve the creation and operation of the park, Downsview Park has become fully autonomous and will now report directly to Parliament through its responsible minister, currently the Minister of Transport, as if it were a parent Crown corporation.

Public funds spent for the development of the park

10.13 We reported in previous audit reports that funds from National Defence's Vote 1 were used for the development of the park instead of being spent on National Defence's activities. We have updated the information based on a recent review that National Defence made on all past transactions with Downsview Park as follows:

- Between 1996 and 2000, National Defence paid approximately \$8 million for expenditures related to the development of the park site (the payments were made to Canada Lands prior to April 1999 and subsequently to Downsview Park). In our view, these expenditures were not a valid charge against National Defence's Vote 1, which Parliament had authorized to be used for National Defence's operating expenditures.
- Further, during the same period, National Defence allowed Canada Lands and Downsview Park to keep a total of about \$7 million of revenues generated from the leasing of National Defence properties, which should have been deposited in the Consolidated Revenue Fund.
- 10.14 In its response to the Committee report of 2002 on Downsview Park, the government indicated that steps were being taken to correct the irregularities noted in National Defence's Vote 1. In this regard, we noted that National Defence has included the amounts totalling about \$15 million in its accounts receivable for Public Accounts purposes for the year ended 31 March 2003. We were also informed that National Defence intends to initiate actions to correct these irregularities.
- 10.15 We also reported in our previous observations that, in 2001, the government undertook one significant transaction that resulted in an infusion of approximately \$19 million in cash to Downsview Park for its program activities. We concluded at the time, and it is still our view, that given the importance of this project and the nature of the transaction, it would have been preferable to obtain formal approval by Parliament.

Corporate structure

- 10.16 We also noted in the previous reports that the full consequences of the current corporate structure were not thought out fully when Downsview Park was created. For example, the particular structure used to create the new park was based on the assumption that Downsview Park would be eligible to receive charitable donations through a foundation and use them to develop the park. Under the *Income Tax Act*, however, the foundation could donate its funds only to a "qualified donee." Downsview Park is not a "qualified donee" for income tax purposes because it was established as a taxable, commercial, for-profit entity.
- 10.17 On 16 September 2003, a Royal Proclamation declared that the Government Corporations Operation Act is now applicable to Downsview Park. The Proclamation converted Downsview Park from a non-agent to an agent Crown corporation. This means that the corporation will be granted certain privileges normally enjoyed by the Crown. Among other privileges, a donation to an agent Crown corporation is normally classified as a donation to the Crown. Downsview Park management indicated that this is a step toward resolving shortcomings in the corporate structure, with a view of making the corporation eligible to receive charitable donations.

Conclusion

10.18 The government has initiated actions to address issues we had raised in our previous reports about Downsview Park. We believe that the government should have given Parliament the opportunity to review and approve the creation and operation of an urban park. However, with the recent steps taken by the government, Downsview Park will now be directly accountable to Parliament for its operations as if it were a parent Crown corporation. It will report through the responsible minister, currently the Minister of Transport. Also, the government is taking measures to address irregularities noted in National Defence's Vote 1 transactions and shortcomings in the corporate structure of Downsview Park.

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Indian and Northern Affairs Canada

The Department needs to improve third-party intervention

In brief

When a First Nations community delivering a program or service under a funding arrangement with Indian and Northern Affairs Canada fails to meet its obligations, the Minister has the right to intervene. The Department's Intervention Policy (2001) provides for three levels of intervention according to the seriousness of the circumstances. At the highest level of intervention, the Department selects a third party to take over the management of the funding arrangement until the problems are resolved.

We found that the selection of third-party managers did not follow the basic principles of openness and transparency required by the government's policy on transfer payments. We also found several weaknesses in the Department's administration of the third-party management process.

The Department approved the Third Party Manager Policy in April 2003—a new policy aimed at improving the process. It includes a requirement that the third-party manager be selected according to basic contracting principles and practices. We reviewed the policy and found that it does not address some of the weaknesses we identified. The Department needs to address the gaps in the new policy and develop a strategy and an action plan for implementing the policy throughout its regions.

Audit objective

10.19 The objective of this audit was to determine whether the implementation of third-party management is consistent with the principles of openness and transparency as set out in the government's policy on transfer payments and Indian and Northern Affairs Canada's Intervention Policy. We expected to find that

- · the decision to intervene was timely,
- the selection of the third-party manager was open and transparent,
- the administration of the Third Party Manager Policy incorporated First Nations input,
- the Department was periodically monitoring the performance of the third-party manager,
- the funding arrangement with the third-party manager provided for the development of the management capacity of the First Nation and a strategy to end the intervention, and
- the Department's new Third Party Manager Policy (effective April 2003) addressed the weaknesses we identified in the implementation of third-party management.

Background

- 10.20 Indian and Northern Affairs Canada is responsible for the delivery of a wide range of programs and services to status Indians on reserves.
- 10.21 First Nations communities administer 85 percent of the Department's program funds through funding arrangements that generally take the form of standardized contribution agreements. They are subject to various conditions, including the minister's right to intervene.
- 10.22 The funding arrangements provide for intervention when
 - the recipient community defaults on any of the obligations set out in the agreement;
 - the recipient's auditor issues a denial of opinion or an adverse opinion;
 - the council has incurred a cumulative deficit equivalent to eight percent or more of the council's total annual revenues; or
 - the Department has a reasonable belief, based on material evidence, that the health, safety, or welfare of the recipient's community members is being compromised.

Intervention is intended to be temporary.

- 10.23 Funding arrangements provide for three levels of intervention, depending on the seriousness of the default. Low-level intervention requires that the First Nation's chief and council develop a remedial management plan setting out how the default will be remedied. Moderate-level intervention requires the First Nation to appoint an independent co-manager who, together with the chief and council, manages the First Nation's funding and obligations under the funding arrangement. High-level intervention is the appointment of a third party to manage the First Nation's funding and obligations under the funding arrangement.
- 10.24 During our December 2002 audit on the extensive reporting that the federal government requires of First Nations, we noted certain problems in the third-party management process. We decided to return and examine the process more closely.
- 10.25 Out of 614 First Nations in Canada, 32 were in third-party management at the time of the audit. We reviewed 10 First Nations' funding arrangements that are now under third-party management in four regions. We visited one of the four regions.
- 10.26 We reviewed the administration of the third-party management process against the Department's Intervention Policy. We also used the government's policy on transfer payments because that policy applies to the type of funding arrangements used by the Department to engage third-party managers. While the policy on transfer payments allows for a broad range of uses, it does not require public tendering and competitive bidding. Thus, it may not be the most appropriate means of contracting for the services of third-party managers. The Department could have followed the government's contracting policy to procure the services of third-party managers. The contracting policy requires public tendering of contracts and a competitive bidding process, whereas transfer payments are most often used to fund

eligible recipients under programs. During our examination, the Department approved a new policy aimed at improving third-party management that includes many of the requirements of the government's contracting regulations. We decided to review the new policy to see whether it addressed the problems we were observing.

Issues Openness and transparency

10.27 We found in most cases that regional department officials selected possible third-party managers from a list of available candidates known to them in the area. Regional officials telephoned candidates on the list or otherwise invited them to bid on requests for third-party management. There was no indication of public tenders or open bidding for the work, and in the region visited no guidance to departmental staff on how to evaluate bids. The regional officials told us that the list of candidates comprises those with previous experience as third-party managers.

10.28 Only one of the four third-party management files we reviewed in the region visited contained the criteria used in selecting the manager from the region's list of candidates. Otherwise there were no criteria or formal documentation of the selection process and nothing to indicate why one candidate was selected over another.

10.29 The new policy provides clear direction about how to select third-party managers. This is important given that in the region visited, the third-party managers charged between \$195,000 to \$312,000 per year for fees, which are paid from the First Nations' funding. Regional offices will need to establish a list of qualified individuals or firms, using competitive tendering processes, guided by 11 explicit criteria that can be added to, as required. This should make the process more open and transparent and consistent with the government's policy on transfer payments.

First Nations' input

10.30 First Nations' input in selecting third-party managers has varied over the years in the region we visited. Representatives of one First Nation told us that involving community leaders in reviewing bid proposals and interviewing candidates had helped to foster a good working relationship between the chief and council, and the manager who eventually was appointed. In other cases, departmental officials had not included First Nations representatives in the selection process; the First Nations representatives we spoke to said that partly as a result, the communities' relationships with third-party managers were poor (Exhibit 10.1).

10.31 The First Nations representatives we spoke to suggested that their input is needed to make third-party management more effective. However, regional officials advised us that it would be inappropriate in most cases to include the First Nation in the selection of its own third-party manager. Officials said they would consider involving First Nations in establishing the list of qualified individuals or firms. The new policy does not provide for any input by First Nations in the selection process.

Exhibit 10.1 First Nations views on third-party management

We started our audit by asking representatives of First Nations communities for their views on third-party management and how well it works.

Some of their comments are as follows:

- Indian and Northern Affairs Canada ought to do more work with communities before the need for third-party management arises.
- The Department needs to establish a pool of qualified managers who can work with a community to co-ordinate capacity building.
- Contracting for the services of third-party managers does not follow an open and transparent process.
- The Department needs to involve the band chief and council in selecting the thirdparty manager, using a jointly developed process.
- Many third-party managers do not work in the community, visiting only twice a month to deliver checks.
- The third-party manager needs to be in the community more often to help build capacity and develop a relationship with the community.
- The fees that managers charge for their services are high.
- There is no process for resolving disputes over decisions made by third-party managers.

Assessment of the third-party manager's performance

10.32 The region we visited had no results-based management and accountability framework in place. The funding arrangements with third-party managers require that the third-party manager conduct detailed monthly monitoring of the First Nation's financial condition; yet we found little evidence that Indian and Northern Affairs officials assessed the manager's performance in the region. For instance, the Department needs to ensure that the third-party managers are present in the First Nations as required by the terms of their funding arrangements. Regional officials in three regions told us that they could not say how often a third-party manager is in a First Nations community.

10.33 Considering the funding administered by these managers (\$4.9 million to \$50 million per year in the region visited) and the fees they charge, we expected to see more rigorous monitoring and assessment of the managers' performance by the Department. While the new Third Party Manager Policy requires the managers to develop remedial management plans and debt reduction plans that can be used to help monitor their performance, more specific monitoring and assessment criteria are needed.

Timelines of intervention

10.34 For timely intervention, the Department needs to act before a First Nation goes too far into debt. We found several instances where First Nations debt levels were very high and should have triggered an earlier intervention but had not. In addition, audit opinions had been denied or qualified in

several consecutive years before the Department intervened on any level. Debt can become unmanageably high when the Department is slow to intervene. Some First Nations in the region visited had debts totalling between 22 to 55 percent of the total yearly government funding. The policy of intervening at increasingly higher levels based on financial indicators and on an assessment of the willingness of the chief and council to co-operate with the Department is a reasonable one. However, the ultimate success of any intervention depends on its use at a time and in a way that prevents a situation from worsening, so the underlying problems can be resolved.

Strategy for building the First Nations' management capacity to end third-party management.

10.35 In the region we visited, the chiefs and councils of First Nations under third-party management can apply for funding to improve their governance capacity. A chief and council, sometimes with the help of a regional tribal council, first makes a formal assessment of the need to build capacity. Assessing this need is a process that seems acceptable but that, we were told, can be slow, depending on the chief's and council's readiness to recognize that the need exists.

10.36 Another way to build capacity is to increase the job skills of the First Nation's staff; this is something community representatives told us has not been undertaken. Third-party managers told us they provide training in accounting and general administration to the staff who need it for their management responsibilities but do not prepare comprehensive training plans for all staff. In the files we reviewed, we saw no strategy or plan to successfully bring the intervention to an end. First Nations were locked into intervention at various levels for several years.

10.37 The new policy requires that a remedial management plan be developed (where possible with the assistance of the chief and council). The remedial management plan contains provisions for capacity building and training activities. However, the new policy does not address who is responsible for enhancing the capacity of the chief and council.

10.38 Departmental officials told us that to be effective, a third-party manager's staff needs to have specific skills in the problem areas of the community, for example, managing social programs. They suggested that this be one of the criteria for selecting the third-party manager of a particular First Nation. Under the new policy, there are provisions that allow the regional officials to choose third-party managers with specific skills.

Policy on debt reduction

10.39 In most of the cases we reviewed, the third-party manager had produced a debt-reduction plan and had begun to reduce the community's debt. In the region visited, as part of what it calls the "de-escalation process," regional officials we spoke to used a yearly debt-reduction target equal to 10 percent of revenues. For heavily-indebted First Nations, this could mean eight or more years of third-party management.

10.40 In the region we visited, regional officials did not permit a third-party manager to pay debts incurred by the community prior to the manager's tenure until the manager had generated a year-end surplus. Then creditors could be paid only with the Department's approval and on a pro rata basis, regardless of the interest rate the creditor has charged. Some third-party managers told us they are prohibited from negotiating with creditors to accept a percentage of the debt, or from repaying first the debts bearing the highest interest. One manager said he should be permitted to negotiate with creditors for repayment at discounted rates and then borrow funds to pay all the creditors. Some managers also said that despite the policy against repaying old debts, they had been forced by suppliers to pay off some debts in full to obtain vital supplies such as school books.

10.41 While the new policy suggests that discussing with creditors and renegotiating debts may be permissible, the third-party managers in the region we visited had not received guidance on this matter.

Three final issues

10.42 We noted three additional issues that warrant mention. First, the policy does not include a formal dispute-resolution process for decisions by the third-party manager that affect individuals. Regional officials told us that they address individual concerns on an informal basis as they come to their attention. Given that the third-party manager is not accountable to the chief and council or to the First Nation and is accountable only to the Department, it may want to consider addressing this gap.

10.43 Second, we noted that the Department has not conducted an evaluation or cost benefit analysis of the third-party intervention process.

10.44 Finally, departmental officials advised us that the new Third Party Manager Policy is being implemented during the 2003–04 fiscal year. We were told the implementation is being monitored by the Department as it performs compliance reviews. However, a formal implementation plan is required.

Conclusion

10.45 The selection of third-party managers in the regions we examined did not follow an open and transparent process that systematically included the input of First Nations. Indian and Northern Affairs Canada did not adequately monitor and assess the performance of third-party managers or ensure that agreements provided for developing the management capacity of the First Nation. The new Third Party Manager Policy addresses some of the gaps we found in the administration of third-party intervention but does not address others. The Department needs to ensure that the rules set out in its new policy are implemented so the selection of third-party managers and their administration are transparent to all involved, particularly to the First Nations. Finally, the Department needs to use the lower levels of intervention earlier and more effectively to reduce the need for third-party management.

10.46 Recommendation. Indian and Northern Affairs Canada should address the elements missing from its new Third Party Manager Policy, namely

- provision for First Nations input,
- · chief and council capacity building, and
- dispute resolution.

Indian and Northern Affairs Canada's response

First Nations input. The audit indicates that the Third Party Manager Policy does not provide for any First Nations input in the third-party manager selection process.

Indian and Northern Affairs Canada (INAC) recognizes that the most effective resolution to ineffective delivery of programs and services is through the First Nation's involvement in remedying the situation. However, First Nations input in the selection of the third-party manager is not realistic in most third-party management situations. Our Intervention Policy states that one of the determining factors to be considered in applying this level of intervention is the Council's unwillingness to address the situation that gave rise to the default under the Funding Agreement. Factors to be considered in this respect could include election disputes that undermine the capacity of Council to deliver the programs and services. Third-party managers are often faced with making difficult decisions regarding debt reduction, while at the same time ensuring that essential services are being delivered to community members. As a result, the Third Party Manager Policy encourages First Nation input in decisions regarding remedial management plans and debt reduction plans but does not make it mandatory, since it might in certain instances cause a delay in implementing remedial measures.

Chief and Council capacity building. The management capacity of a First Nation can be divided in two areas: technical skills of First Nation employees and the governance capacity of Chief and Council. The audit states that the new policy provides for the capacity building of the First Nation staff but does not address the issue of enhancing the capacity of Chief and Council.

INAC recognizes that, in certain instances, where a First Nation is under third-party management, there are capacity issues with Chief and Council. However, in order to be in a position to assist in capacity building, there must be a recognition of a weakness and a willingness to remedy the situation on the part of Chief and Council.

INAC will review the Third Party Manager Policy in order to address the issue of Chief and Council capacity building in instances where the Chief and Council are willing to address the situation.

Dispute resolution. The audit indicates that the policy does not include a formal dispute resolution process for decisions of the third-party manager that affect individuals.

INAC funding agreements include provisions that require a First Nation Council to maintain a system of accountability to its First Nation members, including maintaining formal dispute resolution processes by which its members may appeal decisions of the Council. Terms and conditions in the Third-Party Management Agreement specify that the third-party manager shall maintain, with respect to the programs and services provided by the third-party manager, a system of accountability to the First Nation members that meets or exceeds those of the Council. INAC will continue to monitor the implementation of the policy to ensure adherence.

10.47 Recommendation. Indian and Northern Affairs Canada should develop a strategy and action plan for implementing the new Third Party Manager Policy.

Indian and Northern Affairs Canada's response. INAC will take into consideration all of the audit findings and the results of its compliance reviews to develop a formal strategy and an action plan for implementing the new Third Party Manager Policy.

10.48 Recommendation. In consultation with First Nations, Indian and Northern Affairs Canada should conduct an evaluation of third-party manager intervention.

Indian and Northern Affairs Canada's response. INAC will evaluate the third-party manager level of intervention once it is fully implemented.

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Government-purchase of two Challenger aircraft

A \$101-million contract to purchase two Challenger aircraft for VIP travel did not demonstrate due regard for economy and bypassed expected practices

In brief

The Government Contracts Regulations, the Agreement on Internal Trade, and the Treasury Board Contracting Policy all exist to ensure that departments follow sound procurement principles and demonstrate prudence and probity in government purchasing. Policies and procedures inherent to good procurement practice, as well as National Defence internal procurement rules, were bypassed in the rush to procure two Challenger 604 model aircraft before the fiscal year-end. The Privy Council Office informed departments that a decision to buy two aircraft on a sole-source basis had been made.

Government regulations stipulate the exceptions under which a sole-source contract is permitted but, in our opinion, these exceptions were not applied appropriately. The decision to buy the two aircraft was not supported by the normal analysis and review usual for such a contract. Because of the lack of adequate analysis to support this acquisition, we concluded that the government was not able to demonstrate due regard for economy in this purchase.

Audit objectives

10.49 Our objectives were to determine if this transaction was in accordance with government contracting regulations and policies and whether the procedures and mechanisms established to ensure that value for money is received were followed.

Background

10.50 National Defence has a fleet of six Challenger aircraft—four are used for VIP travel and two are used as utility transport. In June 2001, a rapid depressurization occurred during a flight on one of the VIP aircraft. The problem was fixed, but it did prompt several discussions about replacing aircraft in the fleet. In August 2001 and again in October 2001, representatives from Bombardier Inc. met with officials from National Defence and the Privy Council Office to present the Challenger 604 model as an upgrade to the fleet. However, National Defence indicated that it was satisfied with the performance of the existing fleet and did not have any plans to replace its aircraft until 2010.

10.51 In November 2001, the Privy Council Office asked National Defence about the VIP fleet performance and was informed that both reliability and availability were close to 100 percent.

10.52 In early March 2002, the Privy Council Office convened senior officials from the Department of Justice, Department of Finance, Treasury Board Secretariat, Public Works and Government Services Canada, and National Defence to review the feasibility of buying two Challenger model 604 aircraft plus spare parts from Bombardier Inc. on a sole-source basis. On

18 March 2002, Bombardier Inc. presented an unsolicited proposal to sell two Challenger 604 aircraft. The offer was valid until 30 March 2002. The Privy Council Office then informed National Defence and Public Works and Government Services Canada that a decision had been made to buy two Challenger 604 aircraft. The acquisition was declared urgent and expedited. Because the amount of the contract exceeded the delegated authority of departments for non-competitive contracts, as set out in Treasury Board's contracts directive (26 June 1987), it was necessary to obtain Treasury Board approval for the expenditure and the contract. On 28 March 2002, Public Works and Government Services Canada issued the contract and took possession of two "green" Challenger 604 aircraft, meaning that the interior work was still to be done and the exterior had not yet been painted.

10.53 On 5 April 2002, National Defence paid Bombardier \$92 million— \$66 million for the two aircraft and \$26 million in advance for the interior, equipment, and miscellaneous items, which have since been completed. The two finished aircraft were delivered eight months later, in December 2002.

10.54 This report reviewed the process to replace two of the VIP aircraft in National Defence's Administrative Flight Services Fleet.

The data available at the time of the purchase did not indicate problems with the performance of the VIP fleet

10.55 Large government acquisitions are usually initiated after departments have analyzed needs and available options, and put forward a requirements definition. In this case, National Defence had not planned to replace the Challenger VIP fleet until 2010 and was satisfied that the fleet was meeting operational requirements.

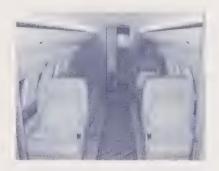
10.56 The performance of the VIP fleet is measured by reliability and availability. National Defence's Administrative Flight Services, who fly the airplanes, must have two planes available 100 percent of the time and a third available 90 percent of the time. At the time the contract was signed, National Defence reported that the reliability rate was 99.1 percent, meaning that less than one percent of flights were delayed due to mechanical problems. Transport Canada, which is responsible for maintenance, reported that aircraft availability was at 99.4 percent, meaning that less than one percent of the time only one aircraft was available. Notwithstanding the reports from National Defence and Transport Canada, the Privy Council Office determined that, in their view, new aircraft would lower the operating costs and improve the capability of the fleet by improving the flying range and providing access to shorter runways.

10.57 While one of the aircraft in the VIP fleet had experienced a rapid depressurization when the Prime Minister was on board, the problem had been fixed, and the Prime Minister and cabinet ministers had continued to fly on the same aircraft for a further 10 months. As well, that particular aircraft will remain in-service and will be converted to a utility transport aircraft for National Defence personnel along with the other aircraft being replaced. The

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The new Challenger 604 replaces older models . . .



. . . and can carry up to nine passengers.

Photo: National Defence

VIP fleet will continue to fly passengers on the remaining Challenger 600 and 601 model aircraft that are not being replaced.

10.58 According to National Defence's Administrative Flight Services records, between May 2000 and February 2002, we found eight in-flight occurrences due to mechanical problems, of which only two required an aircraft to land. During that time there were approximately 1,700 flight departures. We also found that while the new Challenger 604 aircraft can land on shorter runways, there is no indication they are being used for this purpose. The aircraft do have an improved range and have been used occasionally to fly non-stop to western European cities beyond the range of the older Challengers in the fleet.

This contract did not follow the usual procedures for initiating and approving capital acquisitions

10.59 Buying new VIP airplanes was not identified in National Defence's capital plan. Nor was the acquisition subjected to the same scrutiny and approval process that is usual for large defence projects. Normally, a multimillion dollar defence acquisition is managed by a project management office and overseen by a senior review board. National Defence would not usually continue with such a purchase unless its Program Management Board had reviewed and approved project objectives and expenditures. The Challenger acquisition bypassed three key steps in the Defence Management System process:

- the identification of a capability deficiency;
- an options analysis to review risks, costs, and operational impacts, and to propose a selected option for review by a senior review board and for approval by the Program Management Board; and
- a definition phase to detail costs and risks of the approved option before submission to the Treasury Board.

10.60 Neither National Defence nor Transport Canada had time to complete a detailed technical analysis or cost estimate for the project. We were not provided with an adequate analysis supporting the need for two aircraft. We asked government officials how it was determined that two new Challengers were needed instead of one, or even three, but no documentation was provided to us.

10.61 Public Works and Government Services Canada consulted the Aircraft Bluebook and reviewed technical specifications on the Internet to price aircraft before negotiating the contract. Officials estimated that a comparable aircraft from a competitor would cost about 30 percent more than the Challenger 604. However, since no other competitors' proposals were considered, it is difficult to measure whether the chosen contractor provided the best value, particularly when we could find no consideration of life-cycle costs in the comparisons.

10.62 On 28 March 2002, the submissions from Public Works and Government Services Canada and National Defence were sent to the

Treasury Board for approval. Later that day, authority was given to enter into a sole-source contract and \$93 million in funding was authorized for the fiscal year 2001-02 and \$8 million for fiscal year 2002-03. That afternoon the contract was signed.

Exceptions do not appear to have been appropriately applied to support the sole-sourcing of this contract

- 10.63 The process for awarding contracts should be open, transparent, and competitive in accordance with applicable policies, regulations, and trade agreements. Government policy allows sole-source contracts on an exception-basis.
- 10.64 The sole-source awarding of this contract was based on two exceptions—urgency and compatibility with the existing fleet. We examined the basis for both exceptions and found that this contract did not clearly define the technical compatibility requirements or satisfy the criteria for urgency set out in the Agreement on Internal Trade and the Government Contracting Regulations for sole-source contracts.
- 10.65 Under the Agreement on Internal Trade 506.11(a), urgency would apply if an unforeseeable situation exists and goods cannot be obtained in time by open procurement. This exception cannot be used to avoid competition between suppliers. Based on the documentation, the urgency that existed stemmed from the supplier's deadline of 30 March 2002, and the decision to make the purchase in the fiscal year 2001–02. We were unable to find any analysis showing the benefit of buying the aircraft on an urgent basis or the immediate need for new aircraft by fiscal year-end.
- 10.66 The Government Contracting Regulations 6(d) and the Agreement on Internal Trade 506.12(a) allow sole-source contracts if there is only one supplier who can meet the requirements of the procurement to ensure technical compatibility with existing products. The Contracting Policy goes on to say that "this exception should not be invoked simply because a proposed contractor is the only one known to management." In this case, the requirements of the procurement had not been clearly defined. We could find no accompanying analysis of needs that showed only these new aircraft could meet the requirements or that other options such as refurbishing the aircraft were not acceptable.
- 10.67 Public Works and Government Services Canada concluded that the new aircraft should be compatible with the existing fleet, and only the same type of aircraft would be compatible. Although it was known that there were other manufacturers who could be interested in bidding, departmental officials concluded that since only one manufacturer in Canada could meet the needs, the contract would be sole-sourced.
- 10.68 Public Works and Government Services Canada advised the Minister that relying on compatibility as a reason for a sole-source contract was a high-risk strategy since the new aircraft were not identical to the existing fleet. Officials noted that under more compelling situations, the government had been unsuccessful in defending the use of the compatibility exception.

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There is some commonality between the existing fleet (models 600 and 601) and the Challenger 604 model; Bombardier identified that 80 percent of the mechanical parts are the same. However, the avionics (the electrical and electronic equipment in an aircraft) are different, and while the engine of the Challenger 604 is a newer model of the Challenger 601 engine, it is a different type than the Challenger 600 engine. For pilot-certification purposes, Transport Canada has designated the Challenger 604 as a separate aircraft type. Pilots with the VIP fleet must take additional training before they can fly these aircraft.

10.69 Before a sole-source contract is signed, Public Works and Government Services Canada may post an Advanced Contract Award Notice (ACAN) for 15 days prior to signing the contract to allow other suppliers to come forward. The purpose of an ACAN is to provide transparency and fairness and to ensure that the government is made aware of all its options. However, in this case the government had no expectation that another supplier would submit a valid statement of capabilities since the requirement was specifically for two new Challenger 604 aircraft and, therefore, an ACAN was not posted.

10.70 Public Works and Government Services Canada did issue a Contract Award Notice (CAN). A CAN allows suppliers 10 days to file a complaint with the Canadian International Trade Tribunal if they wish to show that they should have been allowed to bid.

10.71 The role of the Canadian International Trade Tribunal is to review contracting challenges. It has rejected some cases of sole-source contracts that were justified on the basis of a need for compatibility. In one specific ruling in 1996, the Tribunal ruled that ensuring new products are compatible with existing ones should be a consideration when evaluating proposals but is not grounds for eliminating all but one supplier. In another ruling in 1999, the Tribunal concluded that justifying a sole-source contract on compatibility grounds, without providing a needs analysis that establishes that competition is not possible, deprived other suppliers of the opportunity to compete. Nevertheless, the Tribunal can only rule if complaints are submitted, and in this case no suppliers challenged the contract.

An advance payment of \$26 million was made in return for discounts and interest

10.72 The Government Contracts Regulations and the Treasury Board Contracting Policy allow for advance payments if warranted. The policy states that advance payments are normally the exception—progress payments would be more common—and should be considered only in extraordinary circumstances, that is, when they are considered essential to program objectives. In this case, we could find no analysis that indicated advance payments were essential to the program objectives.

10.73 Contracting policy calls for an economic advantage to the Crown before considering advance payments. In this case, the contractor had agreed to reduce the price of each aircraft by about \$1.5 million and to pay interest on some of the advance. Interest was to accrue at 6 percent annually on unliquidated portions of about \$20 million of the advance payment but only

until the end of 2002. After 2002, interest was not charged. According to the contract, these benefits are not due to be paid until all costs are finalized and the contract is closed.

10.74 Although the aircraft, interior work, and equipment have been delivered, the contract had not yet been closed at the time of this audit to finalize the costs of spare parts and publications. National Defence calculated that about \$3.7 million in discounts and interest was owed to the Crown since December 2002. But after applying adjustments and contract amendments, the actual amount due was about \$3.2 million. During the course of our audit the contractor paid an interim amount of about \$3.2 million at the end of August 2003.

Conclusion

- 10.75 Because the Privy Council Office informed Public Works and Government Services Canada and National Defence in March 2002 that a decision had been made to buy two Challenger 604 aircraft before fiscal year end, the departments bypassed policies and procedures to quickly submit a \$101-million expenditure for approval.
- 10.76 Because the usual procedures inherent in normal contracting practices were not followed and exceptions were not appropriately applied, the government cannot demonstrate that due diligence was exercised in the awarding of this contract.
- 10.77 The government policies on contracting and the acquisition of capital assets exist to ensure that decision-makers are provided with the information and analysis they need to protect the public interest and to exercise due regard for economy. In this case, decisions were made without the full analysis and reviews expected of a large procurement project.

Privy Council Office response. The government disagrees with the conclusions of this audit, both in terms of the strength of the rationale supporting the acquisition and on the specifics of the chosen procurement strategy.

On the basis for the decision itself, the government considered anticipated improvements in terms of the non-stop flying range of the aircraft, access to runways, serviceability, operating costs, and easing the integration of the new aircraft within the existing fleet. On that basis, the replacement of older aircraft in the fleet with new aircraft of the same type was considered the best alternative. The acquisition decision was driven by a broad range of considerations that more fully reflected the value of the service in terms of capability and cost.

On the procurement strategy, the government proceeded with a streamlined procurement process that supported its policy interests, fiscal objectives, and operational realities. The decision was taken to procure replacement aircraft that were considered compatible with those in the existing fleet from the only manufacturer capable of producing the required aircraft type. This strategy ensured the integration of the new aircraft into the existing fleet and offered a clear advantage in terms of creating industrial benefits in Canada. Sound professional judgment guided this decision in recognizing that if this

procurement was directed to a supplier of a different aircraft type, the acquisition and long-term support costs could have been much higher. Any legal risk of a challenge under the Agreement on Internal Trade by a foreign supplier with a marketing presence in Canada was more than fully offset by the countervailing benefits that arose through a procurement approach directed to the sole Canadian supplier. In the end, no challenge was made.

Public Works and Government Services Canada response. Public Works and Government Services Canada, as the contracting authority, conducted the procurement process of the Challenger 604 aircraft for the Administrative Flight Services Fleet in accordance with the relevant Government Contracts Regulations, the Agreement on Internal Trade, and the Treasury Board Contracting Policy. The governing legislation and policies provide exceptions that may be invoked in specific circumstances. It is the opinion of the Department that certain exceptions contained in the legislation and policies were applicable to this procurement, and consequently, PWGSC cannot accept the observations of the Auditor General that these requirements were by-passed.

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Natural Resources Canada

Controls over contribution payments and scientific equipment need improvement

As a result of our recent work at Natural Resources Canada, we identified two areas that require immediate attention—controls over contribution payments and scientific equipment. These areas are important to ensure that the Department makes good use of its resources to meet the needs of its science-based programs.

We found that Natural Resources Canada needs to improve its financial information and monitoring used to manage contribution payments and scientific equipment, and to comply with Treasury Board policy. In particular, it needs to coordinate information and management across the Department. This would help protect its assets, determine the appropriate amount of money to invest, maximize the benefits gained from its expenditures, and provide good accountability information to Parliament.

10.78 Our objective was to determine whether financial information and monitoring used to manage selected contribution payments and scientific equipment is adequate and complies with relevant authorities.

10.79 Contribution programs. Natural Resources Canada makes transfer payments to a variety of individuals, profit and non-profit organizations, academic institutions, provinces, territories, and municipal and regional governments for programs that contribute to its objectives. Over the last five years, the Department's transfer payments increased by more than 700 percent—from \$48 million in 26 programs for 1998–99 to \$392 million in 36 programs for the 2002–03 fiscal year. This change occurred as a result of both increases in long-standing programs and the introduction of new programs.

10.80 We selected 16 contribution programs from each of the Department's operating sectors (Minerals and Metals, Energy, Earth Sciences, and Forestry). We tested a variety of large and small programs across the Department, including both statutory and non-statutory programs. This accounts for \$210.4 million in expenditures over the period from 1998–99 to 2002–03 and represents 44 percent of the Department's contribution programs. We selected programs that have existed since the new Treasury Board requirements for transfer payments came into place in June 2000 (Exhibit 10.2).

10.81 Scientific equipment. According to Natural Resource's 2001 Long Term Capital Plan, it has approximately 5,000 items of scientific equipment that cost \$188 million and that have a replacement value of \$270 million.

10.82 To test selected aspects of scientific equipment, we selected two departmental sectors—Minerals and Metals and Earth Sciences. These sectors are responsible for 75 percent of the Department's \$270 million in holdings of scientific equipment.

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Exhibit 10.2 Contribution programs and their expenditures from 1998–99 to 2002–03, Natural Resources Canada

Contribution program	Expenditures 1998–99 to 2002–03 (\$ thousands)
Asbestos Institute	725
Canada Newfoundland Development Fund	15,413
Canada Nova-Scotia Development Fund	8,727
Canadian Forestry Association	348
City of Calgary Electrical System	939
Class Contributions	18,269
Climate Change Action Fund	61,850
First Nations Forestry Program	11,989
Forest Engineering Research Institute of Canada	10,822
Forintek Canada Corporation	20,397
Forintek Value Added	4,000
Industry Energy Research and Development	12,589
International Energy Agency International Energy Agency/Forestry	2,806 724
Model Forest Program	35,149
Ocean Drilling Program	2,994
Youth Employment Strategy	2,663
Total	\$210,404

Source: Natural Resources Canada

Issues Contribution programs

10.83 We noted a number of problems with Natural Resources Canada's contribution programs.

10.84 Contribution agreement with terms contrary to those approved for the program. A \$1 million contribution project for provincial employees' salaries, unemployment and pension benefits, and provincial computers and accessories was approved under the Canada Newfoundland Development Fund Agreement. However, under the terms and conditions of the Agreement approved by the Treasury Board for this program, these provincial costs are excluded from eligible costs unless specifically approved by the responsible ministers. No such approval was received.

- 10.85 Inadequate basis for payment. Treasury Board policy states that contribution payments should be based on the achievement of objectives or a reimbursement of eligible expenses. In 5 of the 16 programs we tested, payment was to be made based on the achievement of objectives. In all cases, departmental managers did not have sufficient information from contribution payment recipients to support an informed assessment about the achievement of objectives. These programs accounted for more than \$35 million of expenditures from 1998–99 to 2002–03. Moreover, in two cases representing more than \$20 million in expenditures from 1998–99 to 2002–03, where payment was made based on eligible expenses, we found there was no evidence to support their eligibility.
- 10.86 Overlapping agreements. In January 1997, under the Newfoundland Offshore Development Agreement, Natural Resources Canada agreed to invest \$2.5 million to fund the Canadian Centre for Marine Communications. The purpose was "enhancing the commercial viability of the geomatics industry through the identification and exploitation of national and international opportunities."
- 10.87 On 26 January 2001, under the GeoConnections contribution program, the Department entered into a second agreement with the Canadian Centre for Marine Communications. Natural Resources Canada paid \$76,900 to create and deliver a one-day demonstration at a site in Lisbon, Portugal, on 7 March 2001 "to show that a shared network can be achieved using Canadian Technology."
- 10.88 These two agreements funded research on the same subject, at different times, in the same organization. However, the two branches of Natural Resources that signed the agreements were not aware of each others' funding initiatives. The Department needs to ensure that information is available department-wide on contribution agreement projects.
- 10.89 Need for contribution not supported. Evaluations form an important part of the information used to decide future investments. In 2002, Natural Resources Canada evaluated contributions of \$4 million that it had provided to one company from 1998 to 2002 under the Value-Added program. The evaluation supported the Department's decision to continue the program. However, we found that the evaluation was not broad enough to provide reliable information for decision making. For instance, it noted but did not consider the other \$26.8 million from 1998 to 2003 received by the company from other Natural Resources Canada contribution programs. Nor did it consider \$36.1 million received from other federal departments and provinces from 1998 to 2003. The Department needs to consider contributions from all sources in its evaluations to ensure that it has full information to form its conclusions.
- 10.90 In May 2002, the Department announced further contributions to the same company of about \$30 million over a two-year period. Without an appropriate analysis, the Department cannot determine if the additional assistance was provided only at the minimum level to further the attainment

of the stated objectives of the transfer payment program and the expected results as required by Treasury Board policy.

10.91 Natural Resources Canada does not have an accurate record of the total amount of contributions repayable. In the 2002–03, Natural Resources Canada reported \$146 million of potentially recoverable contributions. However, for the majority of the \$25 million in contributions we reviewed, the Department did not know how much was actually repayable, did not have a proper tracking system for repayable contributions, and had not initiated collection action as required by Treasury Board policy (Exhibit 10.3).

Exhibit 10.3 Example of the management of a repayable contribution at Natural Resources Canada

Signed contribution agreements create valid enforceable obligations to pay Canada the sums of money specified, at the rates specified, and for the periods specified. Re-payment of the contribution is triggered by the terms of the contribution agreement.

Background. Under the Industry Energy Research and Development program, Natural Resources Canada manages a portfolio of repayable contributions. It reported potentially repayable amounts of \$20.3 million for contributions made over a period of three fiscal years (2000–01, 2001–02, 2002–03). This represents 16 percent of the total amount of potentially recoverable contributions of \$146 million at 31 March 2003.

Under the Industry Energy Research and Development program, three officers manage the portfolio of 29 contribution agreements with 26 recipients. At the time of our audit, 4 repayment dates had not yet been triggered, 9 recipients had started repaying their contribution, and 16 recipients had not started paying at all despite the fact that repayment dates had passed.

Depending on the wording in the agreement, recipients are obliged to file a report every 6 or 12 months on either the commercial gross revenue or the gross sales resulting from the contributions received.

Repayment terms in the agreement are stated as a percentage of gross revenue or sales. Repayment is triggered by the terms and conditions in the agreement—usually when gross revenue or sales reach a pre-determined level. The repayment schedule in the agreement is set up to recover the contribution over a period of no more than 10 years. At a minimum, recipients are required to repay one percent of gross revenue or sales annually.

Key terms for repayment not monitored or audited. Officers should be enforcing the reporting requirements set out in the agreements that would provide information to trigger repayment. The officers are not following up on this properly. Some of the recipients are audited to ensure that they comply with the contribution agreement. These audits pay no attention to the key terms for repayment.

Treasury Board policy not adhered to. Receivables should be recorded in accordance with the schedule established by the agreement. However, officers responsible for setting up receivables establish them only when the recipient makes the first payment. The officers allow repayment amounts to be delayed and/or extend the repayment period without interest.

Insufficient support from central departmental level. As there was no departmental procedure or guidance to govern the management of repayment amounts, we were informed that the officers developed their own procedures with the assistance of a private sector contractor. This could result in multiple, inconsistent systems and processes. For example, we found that departmental staff responsible for other contribution programs do not use the one-percent-minimum repayment rule.

10.92 We found that, contrary to Treasury Board policy, the Department has not established department-wide policies and procedures for

- providing guidance to staff responsible for repayable contributions,
- · monitoring to verify when conditions for repayment come into effect,
- recording accounts receivable when conditions for repayment come into effect, and
- calculating and charging interest on over-due accounts.

10.93 Accountability information for Parliament is inadequate. For each transfer payment program with transfers in excess of \$5 million, the Treasury Board requires the Report on Plans and Priorities to include supplementary descriptive material, such as stated objectives, expected results and outcomes, and milestones (a significant point in development) for achievement. We found that the stated objectives, expected results, outcomes, and milestones in the Report for the 16 contribution programs we audited were too vague to hold the Department accountable (Exhibit 10.4).

Exhibit 10.4 Example of inadequate accountability in Natural Resources Canada's Report on Plans and Priorities

Stated objective	Expected results	Outcomes	Milestones
Economic and social benefits: Sustainable financing transfer program	Provide assistance to Canada's forest sector (\$33.7 million)	• Greater economic opportunities; encouraging investment in innovative and higher-value uses of natural resources	No milestones
		Expanded access to international markets	
		Increased capacity of Aboriginal, rural, and northern communities to generate sustainable economic activity	

Source: Adapted from Natural Resources Canada's Report on Plans and Priorities, 2003-04

Management processes need improvement

- **10.94** Because of the problems we identified in the contribution programs, we reviewed some management processes to identify possible causes of the problems.
- 10.95 No formal policies or procedures. To ensure departmental accountability, Treasury Board policy requires departments to develop policies and procedures for contribution agreements. Policies and procedures are required to ensure that results achieved under contribution agreements are adequately monitored and that suitable information from recipients and third parties delivering programs are obtained. Natural Resources Canada does not have such documented policies or procedures.
- 10.96 Compliance monitoring needs improvement. In 6 of the 16 programs we examined, Natural Resources Canada managers relied solely on audited financial statements for recipient organizations as a whole to provide assurance that recipients were complying with the contribution agreement. However, the scope of these audits does not provide assurance that recipients complied with the agreements.
- 10.97 Risk-based priority setting not used in monitoring. We found that program managers audited recipients of transfer payments on a sporadic basis. We found no documented evidence of the reasons for selection or the analysis of program risks. To address this problem, in June 2003 the Department issued a guide for managers on how to audit recipients. However, as recipients frequently receive contributions from more than one program, managers also need information about recipients and contributions on a department-wide basis. This would help them to accurately assess risks and determine where to focus their efforts. Such information is not readily available on a department-wide basis and is not addressed in the guide for managers.
- 10.98 No central monitoring or oversight. Natural Resources Canada relies on individual program managers to carry out project monitoring and results assessment. In light of the weaknesses identified, Natural Resources Canada needs a strong central review function to ensure that the monitoring and assessment is adequate. We found that central financial managers lack the information required for oversight at the corporate level.
- 10.99 Weaknesses identified by internal audits still exist. In late 2000, the Department undertook an internal audit of 13 of its contribution programs. It identified a number of issues, including a lack of criteria for selecting recipients, inadequate audits of payments, and few evaluations of the program results. In response to the findings, management agreed to improve its accountability framework for transfer payments by February 2001.
- 10.100 The Department reported a second internal audit of class grants and contributions in early 2002. Again, the internal audit found weaknesses, including lack of support for payments and insufficient monitoring of results and compliance with agreements. Departmental managers committed to implementing a revised accountability management framework for transfer payments. This framework came into effect in October 2002.
- **10.101** However, as the results of our audit show, the problems identified by previous internal audits remain.

Scientific equipment

10.102 We noted a number of problems with Natural Resources Canada's scientific equipment.

10.103 Some assets were not recorded; others were recorded twice. In one sector we selected for testing, we compared the spending records (2001–02 and 2002–03) for capital items costing over \$10,000 to the capital assets records. We found significant discrepancies; some assets were not recorded and others were recorded twice. Exhibit 10.5 summarizes our findings.

Exhibit 10.5 Comparison of the spending records of capital items costing over \$10,000 to the capital assets records

	Spending records	Capital assets records
	20	001–02
(\$ millions)	\$3.8	\$4.7
capital items	99	154
	20	002-03
(\$ millions)	\$5.5	\$3.0
capital items	94	68

Source: Office of the Auditor General calculations based on data from Natural Resources Canada

10.104 In another sector, we compared equipment on hand to what was recorded in the capital assets records. We found \$12 million of unrecorded equipment.

10.105 Underused laboratories performing similar work. In April 1998, assistant deputy ministers from two sectors signed an agreement to share services of one laboratory to consolidate holdings and optimize the way assets are used. However, no similar agreement exists for the other two science sectors in the Department. We found a large laboratory unit in one of the sectors that is providing similar services as another laboratory in one of the sectors covered by the agreement. These laboratories are operating across the street from each other. Managers agreed that the Department could extend such common service agreements, which would save money by using staff, equipment, and space in a more economical way. This would also allow them to dispose of unneeded equipment.

10.106 Similar equipment purchased. We found that departmental staff purchased similar scientific equipment costing from \$200,000 to \$900,000. The staff did not consider that similar equipment and trained staff in other laboratories were available nearby.

10.107 We reviewed some management processes to identify possible causes of the scientific equipment problems.



These two laboratories provide similar services in the Department . . .



... and are located across the street from each other (paragraph 10.105).

10.108 Changes needed in capital allocation planning. The annual planning framework of the two sectors we reviewed comprises the preparation of 13 separate divisional capital plans for new and replacement equipment. The plans are based on input from 58 groups in 26 different locations. Each sector reviews its own divisional acquisition plans. The sectors do not use the same criteria in the planning process to allocate funds within each sector. Instead, the sectors focus on individual acquisitions; employees do not consider factors such as limiting total capital assets across the Department. Staff do not analyze costs and benefits for the purchase or use of equipment across the Department.

10.109 Recognizing the problems with the sectoral approach, in 2002 the Department formed a cross-sectoral committee to establish criteria and to allocate special capital funding provided by the Treasury Board. While this was an improvement, the Department did not go far enough. Three of the four criteria were based on strategic considerations. The fourth criterion—optimal service—was not considered during the allocation process.

10.110 The Department needs to integrate this new approach into its ongoing planning processes and consider optimal service when deciding what and how much scientific equipment to buy.

10.111 Equipment usage not managed. The 58 group leaders in the two sectors audited know the hours and percentage of time that their scientific equipment is used. Yet, there is no formal requirement to measure that usage or to report on it so that management can use the information to decide the best way to allocate resources.



There are two powder X-ray diffractometers located in laboratories on the same street. One was purchased in 1985 for \$500,000. It has a dedicated staff and is used 70 percent of the time. The second one was purchased in 2001 for \$216,000. It has no dedicated staff and is used about 20 percent of the time.



There are five electron microprobe analyzers located in laboratories across the street from each other. They cost approximately \$900,000 each. The newest one, purchased in 1995, is used only 20 percent of the time. Two older pieces, purchased in 1984 and 1985, are used only 10 percent and 40 percent of the time respectively. Two pieces purchased in 1992 are presently used 80 percent of the time, although this usage is expected to drop.



Natural Resources Canada has four scanning electron microscopes located in laboratories close to each other. They were purchased between 1983 and 1994 at a cost of about \$200,000 to \$280,000 each. Those purchased in 1992 and 1994 are used only 50 percent and 60 percent of the time respectively. The oldest piece of equipment is used 20 percent of the time. The equipment purchased in 1989 is currently used 90 percent of the time; however, usage is expected to drop.

Source: Natural Resources Canada

10.112 During our audit, the Department compiled a list of several items of similar scientific equipment that cost between \$100,000 and \$250,000. These items were used 10 to 25 percent of the time. As of July 2003, senior management had taken no action to optimize the use of this underused equipment.

10.113 Natural Resources Canada needs an ongoing process to track the use of equipment to make the best use of it.

10.114 Monitoring and follow-up of capital assets records process lacking. The Department relies on the operational sectors to perform periodic physical counts and to verify that the capital assets records are accurate, complete, and reliable. Corporate services is responsible for ensuring that the Department's financial records, including the capital asset records, are accurate. Given the discrepancies we found in the capital assets records, it is clear that management in the sectors and in corporate services has not provided adequate oversight to ensure that this work has been carried out effectively.

10.115 Two optimization exercises overlap. In March 2003, each of the two sectors we examined began to analyze their demands for science service functions and to compare the costs of alternative ways to deliver their services. An intradepartmental committee has been established for a similar purpose. It met for the first time in June 2003. In the two sectors we audited, we were unable to find any sign that these separate attempts to analyze demands for equipment and services were being co-ordinated. Without a formal way to co-ordinate the efforts of various committees and managers, the Department will likely have difficulty integrating the results of these separate exercises.

10.116 Internal audit conclusions not properly supported. In 2001–02, the Department's internal auditors concluded that its capital assets, including equipment, were completely and accurately recorded.

10.117 We reviewed the working papers from that audit and found that the audit did not include tests to verify that assets existed or that capital asset records were complete. We would have expected an audit of capital asset records to include these tests. The Department needs to ensure that its internal audit reports are supported by appropriate audit procedures and adequate evidence.

Conclusion

10.118 We found a number of weaknesses in the financial information and monitoring that we audited, which is used for managing the contribution programs and scientific equipment. The Department failed to comply with Treasury Board policies for contributions and asset management. Natural Resources Canada needs to correct these weaknesses to help protect its assets, determine the appropriate amount of money to invest, maximize the benefits gained from its expenditures, and provide good accountability information to Parliament.

10.119 Recommendation. Natural Resources Canada should improve its financial information and monitoring used to manage the contribution

programs and scientific equipment in compliance with Treasury Board policies. In particular, it should co-ordinate information and management across the Department. In addition, Natural Resources Canada needs to correct the instances we reported where it contravenes Treasury Board policy.

Natural Resources Canada's response. Natural Resources Canada (NRCan) agrees with the recommendations of the Auditor General and, in addition to taking action on specific observations, has implemented or is in the process of implementing measures to better manage both departmental assets and contribution programs. As part of these initiatives, NRCan is making improvements to the clarity of its contribution program objectives and reports to Parliament in order to ensure that Canadians have adequate information to hold the department accountable for the resources entrusted to it.

Contribution programs. The contribution programs managed by NRCan have grown substantially over the past five years and will continue to grow as the government works to meet its Kyoto greenhouse gas reduction targets. With this growth, NRCan recognizes the need to improve its control and management of contributions programs. In fact, substantial progress has already been made. Extensive training has been and will continue to be given to managers who administer contribution programs. As well, a guide to the audit of recipients has been distributed to all managers to assist them in controlling and assessing the results of their programs. In October 2002, the Department implemented a Transfer Payment Management Framework that clearly outlines roles and responsibilities of stakeholders and supports prudent management of transfer payments. Further to this framework, a Centre of Expertise has been established that will improve the horizontal coordination of all contributions, provide policy advice and guidelines, and monitor centrally the management of all programs. In addition, the Department has begun implementation of a Grant and Contribution Tracking and Management System that will provide managers with better program-specific and Department-wide information and monitoring capabilities. The monitoring system will also track the implementation of departmental followup to internal audits. This system, along with the Centre of Expertise, will help ensure that contribution programs are managed consistent with program terms and conditions and Treasury Board policies.

Scientific equipment. NRCan has undertaken a review of its departmental policy and guidelines on asset management to ensure that the management of assets is done in an effective manner throughout the Department and in compliance with Treasury Board directives. In conjunction with this review, the Department's Asset Management System is being examined to ensure that it contains and produces accurate information for management decisions.

In addition, NRCan has taken several steps to ensure better management of scientific equipment, in keeping with the diverse nature of the Department's scientific mandate and the regional locations of many of its laboratories. First, improvements have been made to the existing Capital Project Priority Ranking Framework to make it a more robust tool in making Department-

wide decisions on capital purchases. Second, the December 2002 Report *The Future of Science and Technology at Natural Resources Canada* recommended the creation within NRCan of a laboratory and equipment review mechanism. The Department has acted on this recommendation. The Laboratory Coordinating Committee, reporting to the new Chief Scientist at NRCan, will identify options for the replacement or acquisition of major capital equipment, including cross-sectoral pooling of capital resources and sharing of facilities and equipment, as well as co-investment in major capital assets with external partners.

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Independent reviews of security and intelligence agencies

The activities of security and intelligence agencies are not subject to consistent levels of review and disclosure

In brief

Security and intelligence agencies' compliance with the law and ministerial direction is subject to widely varying levels of independent review—in some cases, to no review at all. Review bodies also provide varying levels of details in their reports.

Independent review is important because of the intrusive powers of agencies and departments involved in intelligence gathering and law enforcement. Accordingly, we would have expected that intrusive powers would be subjected to a level of review proportionate to the level of intrusion.

Audit objective

10.120 This audit observation is a result of a larger project examining the National Security Enhancement Initiative announced in the 2001 Budget. Our objective was to determine if there are gaps in the extent and nature of the external review of Canada's security and intelligence agencies and in the disclosure of findings.

Background

10.121 Canada's security and intelligence community consists of numerous players: the Canadian Security Intelligence Service, the Royal Canadian Mounted Police, National Defence, the Communications Security Establishment, the Department of Foreign Affairs and International Trade, Citizenship and Immigration Canada, the Canada Customs and Revenue Agency, and the Financial Transactions and Reports Analysis Centre of Canada.

10.122 These departments and agencies are involved to varying degrees in the actual collection of intelligence, with varying levels of intrusion into peoples' lives. In some cases, information is gathered through the use of covert means such as surveillance and wiretaps. In other instances, the information is gathered using public sources such as the media or by compulsory reporting of financial transactions to the government. Many of these intelligence-gathering organizations received extra funding following the events of 11 September 2001. Organizations in the security and intelligence community have wide-ranging mandates. We focussed only on a portion of them during our audit.

10.123 The Anti-terrorism Act, proclaimed in December 2001, altered certain mandates as a way of ensuring better protection for Canada against terrorist activities. The debates that surrounded the Anti-terrorism Act and other similar reviews by parliamentary committees highlighted the fact that, notwithstanding the desire to increase Canada's capacity in the fight against terrorism, many parliamentarians were strongly committed to ensuring that civil liberties of Canadians were protected.

10.124 Our audit focussed only on those agencies involved in the collection of intelligence within Canada—either directly or in an assistance role—as their activities have the highest potential to affect Canadians. We assessed the level of external, independent review over each agency and the ability of review bodies to report their findings to Parliament. Citizenship and Immigration Canada and the Department of Foreign Affairs and International Trade do not collect intelligence about Canadians in Canada.

10.125 Canadian Security Intelligence Service. The Canadian Security Intelligence Service is Canada's primary security intelligence agency. It collects and analyzes information on suspected security threats to Canada to advise government of these threats. The Canadian Security Intelligence Service Act specifies that the Service may collect information "to the extent that it is strictly necessary." Service policies fully reflect this principle.

10.126 The Service uses a wide range of investigative techniques such as physical surveillance and interviews with individuals. Ultimately, the Service may be authorized to "intercept any communication or obtain any information, record, document or thing" related to suspected threat activities. Permission to proceed with the most intrusive measures is provided by the courts through warrant applications.

10.127 Royal Canadian Mounted Police (RCMP). The RCMP is Canada's federal law enforcement agency. Prior to 1984, when the Canadian Security Intelligence Service was created, the RCMP was also responsible for fulfilling Canada's requirements for security intelligence.

10.128 The Anti-terrorism Act altered the RCMP's role in national security. By defining terrorist support as a criminal offence, the Act provided for a larger role for the RCMP. RCMP officials stress that their involvement in national security is criminal law enforcement. The RCMP has become much more active in investigating criminal activity related to national security and will receive \$576 million over six years under the Public Security and Anti-terrorism funding package. Of that amount, \$300 million is for Integrated National Security Enforcement Teams, Integrated Border Enforcement Teams, and Investigations Operational Support. By virtue of its role as a police agency, the RCMP is empowered to use a variety of investigative tools such as wiretaps. Before proceeding to those methods, the RCMP, like the Canadian Security Intelligence Service, must have warrants authorized by a court.

10.129 Communications Security Establishment. The Communications Security Establishment's mandate is three-fold:

- to acquire information from the global information infrastructure (signals intelligence) for the purpose of providing foreign intelligence,
- to help ensure the protection of the government's electronic information and of information technology infrastructure, and
- to provide technical and operational assistance to federal law enforcement and security agencies.

10.130 The Communications Security Establishment reports that over the past several years there has been a substantial increase in the level of assistance to these agencies, especially the RCMP. In these instances, the Establishment is working under the authorities of the law enforcement or security agencies and is subject to any limitations imposed on those agencies by law.

10.131 The Anti-terrorism Act resulted in broader powers for the Communications Security Establishment. Previous to the passage of the Act, it was not permitted to intercept private communications that entered or left Canada. Under the Act, the Minister of National Defence may authorize the Communications Security Establishment to intercept such communications acquired while targeting foreign entities abroad during specific or related activities. Authorization is based on a number of conditions, including having satisfactory measures in place to protect the privacy of Canadians.

10.132 National Defence. National Defence's primary mandate is the defence of Canada. Intelligence activities abroad or in Canada are conducted in support of this mandate. The Department and the Canadian Forces are concerned with defence intelligence—that is, collecting information on the military capabilities and intentions of foreign states and entities. They have the capacity to collect domestic intelligence but do so only in rare circumstances and under clear legal authority in support of domestic Canadian Forces operations, to protect the safety of defence personnel and assets, or in support of mandated federal departments and agencies. In the latter case, they are operating under the authorities of the department or agency and are subject to any limitations imposed on them by law. There are three units that may be involved in domestic intelligence collection: the National Counter-Intelligence Unit, the Canadian Forces Information Operations Group, and the Canadian Forces Joint Imagery Centre.

10.133 The National Counter-Intelligence Unit is primarily responsible for the identification and investigation of security threats to National Defence and the Canadian Forces. It also provides liaison with other security agencies such as the Canadian Security Intelligence Service. Its investigations may include the use of search warrants, physical surveillance, and communication intercepts. Permission to proceed with the most intrusive measures is provided by the courts through warrant applications. Investigations can extend beyond Defence employees where the security of the Department or the Canadian Forces is involved. It is their practice to hand over the investigation to the lead agency—usually the RCMP or the Canadian Security Intelligence Service—if the subject of the investigation is other than a defence employee.

10.134 The Canadian Forces Information Operations Group conducts signals intelligence collection activities in support of the Canadian Forces. The Group is also involved in signals intelligence collection in support of the Communications Security Establishment. In this case, the collection activities are subject to the Communications Security Establishment's mandate and review mechanisms. All of the Canadian Forces Information

Operations Group's activities are subject to the laws of Canada, in particular the Criminal Code and the Privacy Act.

10.135 The Canadian Forces Joint Imagery Centre may under certain circumstances co-ordinate the collection of images of areas of Canada to support the domestic and international operations of the Canadian Forces. As well, the Centre may provide support to other Government of Canada interests, such as securing information on forest fires and floods. There are express limitations on the role of National Defence and the Canadian Forces in collecting imagery intelligence on Canadian individuals and groups within Canada.

10.136 The Canada Customs and Revenue Agency (CCRA). The Customs portion of the Agency has an active intelligence service with over 200 intelligence officers and analysts. Intelligence officers may collect information, execute search warrants, and access some individual tax return information. This is usually undertaken within the context of a smuggling investigation. Customs participates in many joint force operations with various police agencies. Customs also has a Counter-Terrorism and Counter-Proliferation Section operating out of its national headquarters. This group liaises with the Canadian Security Intelligence Service, the Communications Security Establishment, and the RCMP. Information that is collected regionally is provided to this section. Information will in turn be provided to the Canadian Security Intelligence Service or the RCMP when a Customs official has reasonable belief that the information relates to the national security or defence of Canada.

10.137 Financial Transactions and Reports Analysis Centre of Canada. After the Anti-terrorism Act was passed, the Centre's mandate was broadened to allow it to detect and deter terrorist financing. Originally, it was restricted to activities related to money laundering. Its current role is to receive, collect, and independently analyze transaction reports provided by a variety of partners (including financial institutions, financial intermediaries, and the Canada Customs and Revenue Agency) and to disclose relevant information to law enforcement and security agencies where appropriate.

10.138 The Centre operates at arm's length from law enforcement, and there are numerous safeguards in place before it can disclose information to law enforcement and security agencies. (For further information see the April 2003 Report of the Auditor General, Chapter 3, Canada's Strategy to Combat Money Laundering.)

Review powers are inconsistent

10.139 Having the ability to review the work of security and intelligence agencies depends on two things: the legal authority to conduct reviews and to gain access to necessary information and the possession of resources required to do the work. We expected external review to be consistent among security and intelligence agencies. That is to say, similar powers of intrusion would be subject to similar levels of after-the-fact review. We found that the powers to review security and intelligence agencies vary widely.

10.140 Canadian Security Intelligence Service (CSIS). The actions of the Service are reviewed by two bodies external to the Service: the Office of the Inspector General and the Security Intelligence Review Committee. The mandate of the Inspector General is to monitor if and how well the Service is complying with its operational policies, to review its operational activities, and to submit a certificate to the Solicitor General each year. The certificate states the extent to which the Inspector General is satisfied with the annual report of the director of the Service to the Minister. The certificate states specifically, in the opinion of the Inspector General, whether the Service has undertaken any action that contravenes the Canadian Security Intelligence Service Act or ministerial direction, or whether the Service has made any unreasonable or unnecessary use of its powers. The Inspector General has access to all information except for advice to, and certain discussions between, ministers. He is also entitled to receive explanations and reports from the director and employees of the Canadian Security Intelligence Service.

10.141 In addition to the Inspector General's review, the activities of the Canadian Security Intelligence Service are also reviewed by the Security Intelligence Review Committee. The Committee's mandate is broad and includes reviewing the performance of the Service. It includes

- reviewing the director's annual report and the Inspector General's certificate,
- arranging for or conducting reviews of the legality of the Service's conduct and reviews about whether it has made any unreasonable or unnecessary exercise of its powers, and
- investigating complaints made against the Service.

10.142 As is the case with the Inspector General's access, the Committee has access to all information held by the Service except for advice to, and certain discussions between, ministers. The Committee may also request information, reports, and explanations as it deems necessary from the director and Service employees. This access allows the Committee, for example, to review warrants to determine whether the Service has abided by the principle of collecting information strictly to the extent necessary.

10.143 Subsequent to the attacks of 11 September 2001, the government decided to increase funding of the Canadian Security Intelligence Service by 36 percent by 2006–07. The Service intends to increase its staffing by over 280 full-time positions. The budgets of the Inspector General and the Security Intelligence Review Committee have remained relatively static since 2001.

10.14 Royal Canadian Mounted Police. The RCMP is reviewed by the Commission for Public Complaints Against the RCMP. Its mandate is to review public complaints about RCMP members' conduct. The Commission is established on the model of civilian oversight of police services, rather than that of an inspector general of a security and intelligence service. Unlike the Canadian Security Intelligence Service, the RCMP is not subject to reviews

aimed at systematically determining its level of compliance with the law and ministerial direction.

10.145 Under the civilian oversight model, investigations are initiated by a complaint, rather than an independent review plan. The RCMP itself initially investigates the complaints and provides a report to the complainant. If the complainant is not satisfied with the RCMP's disposition of the complaint, the individual may ask the Commission to conduct a review. The Chair of the Commission may then ask the RCMP to investigate further, initiate her own investigation into the matter, or hold a public hearing.

10.146 The Commission does not have the same level of access to RCMP information as the Inspector General and the Security Intelligence Review Committee have to CSIS information. Whenever the Commission reviews how the RCMP has dealt with a complaint, the legislation indicates that the Chair has access to "relevant material."

10.147 If the Chair chooses to proceed with her own investigation of a subject that she deems to be in the public interest, her power to access information is not specified in the legislation. In fact, the legislation does not provide for the random access to RCMP files and operations that would allow the Commission to provide Parliament with broad assurance relating to compliance with the law, especially in terms of appropriate use of intrusive powers.

10.148 This falls short of the explicit powers given to the Inspector General and Security Intelligence Review Committee who can access all information held by the Canadian Security Intelligence Service and request explanations from staff. The Commission for Public Complaints Against the RCMP and the RCMP are currently in Federal Court to determine if the Commission should have access to certain information held by the RCMP that the Commission believes to be relevant.

10.149 RCMP officials told us that their main concern regarding access to police files is that the identity of confidential informants might be disclosed. They might be injured or killed if their identities were revealed. Other review agencies are bound by oaths of secrecy that prevent them from disclosing this type of information.

10.150 RCMP officials also told us that because they investigate with a view to criminal prosecution, they must closely follow the law while collecting evidence; otherwise evidence would be excluded and the prosecution could fail. In their opinion, other security and intelligence agencies that do not lay criminal charges are not subject to this discipline. We note, however, that the RCMP counterterrorism strategy focusses not on prosecuting but on "preventing, detecting and deterring terrorist activity in Canada and abroad." RCMP documents cite "preventive measures," including the expansion of intelligence collection activities. The RCMP has informed us that while their investigations focus on criminal intelligence and activity, prosecution is not always possible for a variety of reasons, including difficulty in using classified information.

10.151 Communications Security Establishment. The Communications Security Establishment is reviewed by the Communications Security Establishment Commissioner. The Commissioner is responsible for reviewing the Establishment's activities to ensure that they are in compliance with the law and for investigating complaints. The Commissioner must also inform the Minister of National Defence and the Attorney General of any activity the Commissioner believes may not be in compliance with the law.

10.152 The Communications Security Establishment Commissioner has all the powers of a commissioner under the *Inquiries Act*, namely the power to enter any public office, full access to all records, and the ability to summon individuals to give testimony.

10.153 Changes proposed in Bill C-17 would give the Commissioner new responsibilities for reviewing the lawfulness and compliance with ministerial authority for activities to protect computer systems and networks undertaken by National Defence or the Canadian Forces. The Commissioner would also be empowered to deal with complaints arising from such activities.

10.154 Canadian Forces, the Canada Customs and Revenue Agency, and the Financial Transactions and Reports Analysis Centre of Canada. These organizations do not have a specific agency to independently review their compliance with law and ministerial direction. The Privacy Commissioner carries out a limited review to ensure that obligations under the *Privacy Act* are respected (as applicable to all federal departments and agencies). The Office of the Auditor General and each organization's internal auditors may conduct compliance audits. In the case of Canada Customs, the courts would review information used in a criminal prosecution.

Disclosure of findings to Parliament varies

10.155 Just as the mandates of review agencies vary, so does reporting and disclosure of findings. In general, the Security Intelligence Review Committee is limited only by security and privacy considerations in reporting its findings to the Minister, and through him to Parliament. The committee reports contain observations on the adequacy of intelligence provided by the Canadian Security Intelligence Service and on the Service's performance.

10.156 The findings of the Inspector General of the Canadian Security Intelligence Service are reported only to the Minister and to the Security Intelligence Review Committee. However, the Committee can release any important findings of the Inspector General in its annual report to Parliament, as long as these findings are unclassified and do not contain personal information.

10.157 The Chair of the Commission for Public Complaints Against the RCMP reports fully to Parliament, but the scope of her work on the security and intelligence activities of the RCMP has been very limited.

10.158 The Communications Security Establishment Commissioner focusses on whether he found any unlawful activities or activities that did not comply with ministerial authority. While his legislated mandate is not worded in as

much detail as that of the Security Intelligence Review Committee, there is nothing that precludes the Commissioner from reporting more broadly. His annual report contains few details regarding management issues or potential problems. It is the opinion of the Commissioner that the activities and findings of the Commissioner do not by definition include management issues or potential problems at the Communications Security Establishment.

10.159 Because the Canadian Forces, the Canada Customs and Revenue Agency, and the Financial Transactions and Reports Analysis Centre of Canada do not have external review agencies that monitor their security intelligence activities, Parliament receives no independent information regarding their compliance.

10.160 In the course of our audit, we reviewed the following:

- most of the reports listed in the Communications Security Establishment Commissioner's 2002–03 Annual Report,
- Security Intelligence Review Committee reports supporting key findings and recommendations in its Annual Report 2001–2002, and
- a selection of reports of the Inspector General of the Canadian Security Intelligence Service to the Minister.

We found no inconsistencies between these reports and their public reports. We did not assess the completeness of the unpublished reports.

Conclusion

10.161 Our audit found a wide range of independent reviews of, and reporting to Parliament on, security and intelligence agencies. While mandates may differ from one organization to the next, it is our opinion that there should be more consistency in the extent of independent review applied to any environment where intrusive investigative measures are used. The Commission for Public Complaints Against the RCMP, in comparison to the Security Intelligence Review Committee, does not undertake reviews aimed at systematically determining compliance with the law, nor does its mandate provide for unrestricted access to all information. The Communications Security Establishment Commissioner has a stronger mandate to review the Communications Security Establishment but provides limited information to Parliament. Other agencies with limited domestic operations have no after-the-fact review. We believe a comprehensive review of this situation would be beneficial.

10.162 Recommendation. The government should assess the level of review and reporting to Parliament for security and intelligence agencies to ensure that agencies exercising intrusive powers are subject to levels of external review and disclosure proportionate to the level of intrusion.

Privy Council Office's response. The various departments and agencies in the security and intelligence community operate under quite different mandates and legislation. They are therefore subject to a variety of review mechanisms and reporting requirements.

It is acknowledged that there is a need to ensure that there continue to be appropriate review mechanisms and reporting requirements as the mandates

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of departments and agencies are adapted to respond to the evolving security environment. Any consideration of review mechanisms and reporting requirements must adequately consider the very important and, in some cases, fundamental differences in mandates and operations of departments and agencies.

Royal Canadian Mounted Police's response. The RCMP collects intelligence within the context of its law enforcement role. All criminal investigations, including national security matters, are subject to stringent accountability, such as judicial oversight at the investigative and prosecutorial stages.

Criminal investigations are protected from direct political influence. The reporting to the Minister and to Parliament has to be circumspect in relation to cases where charges have not yet been laid, or where the matter is still before the courts.

The RCMP recognizes the shared jurisdiction of the RCMP and the Commission for Public Complaints Against the RCMP (CPC) in the public complaint process. We believe that, using the full authority of the CPC, the current public complaint process works in the public interest.

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The surplus in the Employment Insurance Account

Non-compliance with the intent of the Employment Insurance Act

In brief

We have drawn Parliament's attention to our concerns about the size and the growth of the accumulated surplus in the Employment Insurance Account since our 1999 Report. The Employment Insurance rate has declined each year since 1994, yet the surplus continues to grow. In our view, Parliament did not intend for the Employment Insurance Account to accumulate a surplus beyond what could reasonably be spent for Employment Insurance, given the existing benefit structure and allowing for an economic downturn. In our opinion, the government did not observe the intent of the *Employment Insurance* Act. In the 2003 Budget, the government announced that it will conduct consultations on a new rate-setting process to be implemented for 2005.

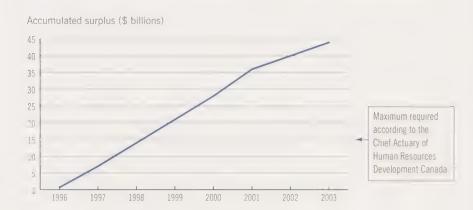
Audit objective

10.163 Our objective for this audit was to determine whether the government had addressed our concerns and to report on the progress achieved.

Background

10.164 The surplus in the Employment Insurance Account grew by \$3 billion in the last fiscal year to reach \$44 billion, and it is still growing. Exhibit 10.6 shows the growth of the accumulated surplus over the past seven years. For the last four years we have drawn attention to this issue in our reports on the Employment Insurance Account's financial statements and in the Public Accounts of Canada.

Exhibit 10.6 The growth of surplus amounts in the Employment Insurance Account from 1996 to 2003



Source: Audited financial statements of the Employment Insurance Account

Issues

10.165 The Employment Insurance Act requires that an accounting be kept of employment insurance revenues and expenditures. There have been many discussions about what the balance in the Employment Insurance Account represents. We have used terms like "notional account" and "tracking account" to describe the balance, since funds received are deposited in the

government's Consolidated Revenue Fund and not in a separate or distinct account. The balance provides a basis for managing the Account, and it is an important factor in setting premium rates, so that over time the Account breaks even.

10.166 Section 66 of the Act required that to the extent possible, the premium rate be set to provide enough revenue over a business cycle to pay amounts authorized to be charged to the Account while maintaining relatively stable rates. In our view, this means that Employment Insurance premiums should equal expenditures over some period of time, while providing for a sufficient reserve to keep rates stable in an economic downturn. In other words, we believe Parliament's intent was that this program would operate on a breakeven basis over the course of a business cycle. The legislation also made it necessary for the Canada Employment Insurance Commission to make certain key decisions—such as how it would define "business cycle" and "relatively stable rates." In May 2001, the Act was amended to suspend section 66 for 2002 and 2003 to give the Governor in Council the authority to set the rates for those two years.

10.167 Nevertheless, the *Employment Insurance Act* also provides that all money collected for employment insurance purposes be credited to the Account. The only authorized amounts that can be charged to the Account are employment insurance benefits and administration. In our view, Parliament did not intend for the Account to accumulate a surplus beyond what could reasonably be spent for employment insurance purposes. The current surplus is approaching three times the maximum reserve that the Chief Actuary of Human Resources Development Canada considered sufficient in 2001. Accordingly, in our opinion the government did not observe the intent of the *Employment Insurance Act*.

10.168 In the 2003 Budget, the government announced that it will conduct consultations on a new rate-setting process to be implemented for 2005. In the interim, it set the 2004 employee rate at \$1.98 per \$100 of insurable earnings on the basis that premium revenues equal projected program costs for that year. We note that in the Budget Plan the government states that the following rate-setting principles would guide its ongoing consultations:

- premium rates should be set transparently and on the basis of independent expert advice;
- expected premium revenues should correspond to expected program costs; and
- premium rates should mitigate the impact on the business cycle and be stable over time.

These principles are, in our view, consistent with our interpretation that Parliament's intent was that the Employment Insurance Program would be run on a break-even basis.

10.169 In the 2003 Budget, the government invited interested parties to make their submissions for consultations on a new rate-setting process. Observations could be submitted until the end of June 2003. Senior officials

from the Department of Finance and Human Resources Development Canada held a series of meetings with representatives of business, labour, and experts in the field. Government representatives are presently studying the comments and submissions received and will report back with the results of the consultation. The government intends to introduce legislation to implement the results of the consultation, in time to have a permanent ratesetting regime in place for 2005.

10.170 Even with the premium rate reduction and the current public consultation process, we found that the government has not yet addressed our concerns about the surplus in the Employment Insurance Account. In our view, it was Parliament's intent that the Employment Insurance Program be run on a break-even basis over the course of a business cycle, while providing for relatively stable premium rates. However, the accumulated surplus, in the Employment Insurance Account increased by another \$3 billion to \$44 billion in 2002–03 fiscal year. In view of the growing size of the accumulated surplus, which is now three times larger than the maximum amount required according to the Chief Actuary of Human Resources Development Canada, we urge the government to take all the necessary steps to resolve this long-standing issue.

10.171 Recommendation. The Department of Finance and Human Resources Development Canada should ensure that terms such as "business cycle" and "relatively stable rates" are defined and clarify what constitutes an adequate level of reserve. Finally, the departments should take all the necessary steps needed to resolve this long-standing issue.

The government's response. The government believes that the setting of Employment Insurance premium rates has been consistent with the applicable legislation. For 2001 and prior, under Bill C-111, the Canada Employment Insurance Commission, which is independent of government, set the Employment Insurance premium rates, and not the government. With respect to Employment Insurance rate setting in 2002 and 2003, the government passed legislation (Bill C-2) that suspended the rate-setting process set out in Bill C-111 and gave the government the authority to set premium rates for both 2002 and 2003. The criteria set out in Bill C-111 were not applicable for these two years.

There has been considerable confusion about the rate-setting process. This was first highlighted in the 1999 report of the Standing Committee on Finance. In the 2003 Budget, the government launched formal consultations on a new rate-setting regime for 2005 and beyond. Interested parties had until 30 June 2003 to provide these submissions. Legislation to implement the results of the consultations will be introduced in time to have the new ratesetting regime in place for 2005.

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Audit team

Assistant Auditor General: Maria Barrados Principal: Jerome Berthelette

Marise Bédard

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Appendix A Auditor General Act

R.S.C., c. A-17

An Act respecting the Office of the Auditor General of Canada and sustainable development monitoring and reporting 1995, c. 43, s.1.

Short Title

Short title

1. This Act may be cited as the Auditor General Act. 1976–77, c. 34, s.1.

Interpretation

Definitions

2. In this Act,

"appropriate Minister"

"appropriate Minister" has the meaning assigned by section 2 of the Financial Administration Act;

"Auditor General"

"Auditor General" means the Auditor General of Canada appointed pursuant to subsection 3(1);

"category I department"

"category I department" means

- (a) any department named in Schedule I to the Financial Administration Act,
- (b) any department in respect of which a direction has been made under subsection 24(3), and
- (c) any department set out in the schedule;

"Commissioner"

"Commissioner" means the Commissioner of the Environment and Sustainable Development appointed under subsection 15.1(1);

"Crown corporation"

"Crown corporation" has the meaning assigned to that expression by section 83 of the Financial Administration Act:

"department"

"department" has the meaning assigned to that term by section 2 of the Financial Administration Act;

"registrar"

"registrar" means the Bank of Canada and a registrar appointed under Part IV of the *Financial Administration Act*:

"sustainable development"

"sustainable development" means development that meets the needs of the present without compromising the ability of future generations to meet their own needs;

"sustainable development strategy"

"sustainable development strategy", with respect to a category I department, means the department's objectives, and plans of action, to further sustainable development. 1976–77, c. 34, s. 2; 1984, c. 31, s. 14; 1995, c. 43, s. 2.

Auditor General of Canada

Appointment and tenure of office

3. (1) The Governor in Council shall, by commission under the Great Seal, appoint a qualified auditor to be the officer called the Auditor General of Canada to hold office during good behaviour for a term of ten years, but the Auditor General may be removed by the Governor in Council on address of the Senate and House of Commons.

Idem

(2) Notwithstanding subsection (1), the Auditor General ceases to hold office on attaining the age of sixty-five years.

Re-appointment

(3) Once having served as the Auditor General, a person is not eligible for re-appointment to that office.

Vacancy

(4) In the event of the absence or incapacity of the Auditor General or if the office of Auditor General is vacant, the Governor in Council may appoint a person temporarily to perform the duties of Auditor General. 1976-77, c. 34, s. 3.

Salary

4. (1) The Auditor General shall be paid a salary equal to the salary of a puisne judge of the Supreme Court of Canada.

Pension benefits

(2) The provisions of the *Public Service Superannuation Act*, other than those relating to tenure of office, apply to the Auditor General except that a person appointed as Auditor General from outside the Public Service may, by notice in writing given to the President of the Treasury Board not more than sixty days after the date of his appointment as Auditor General, elect to participate in the pension plan provided for in the *Diplomatic Service (Special) Superannuation Act* in which case the provisions of that Act, other than those relating to tenure of office, apply to him and the provisions of the *Public Service Superannuation Act* do not apply to him. 1976–77, c. 34, s. 4; 1980–81–82–83, c. 50, s. 23, c. 55, s. 1.

Duties

Examination

5. The Auditor General is the auditor of the accounts of Canada, including those relating to the Consolidated Revenue Fund and as such shall make such examinations and inquiries as he considers necessary to enable him to report as required by this Act. 1976–77, c. 34, s. 5.

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6. The Auditor General shall examine the several financial statements required by section 64 of the *Financial Administration Act* to be included in the Public Accounts, and any other statement that the President of the Treasury Board or the Minister of Finance may present for audit and shall express his opinion as to whether they present fairly information in accordance with stated accounting policies of the federal government and on a basis consistent with that of the preceding year together with any reservations he may have. 1976–77, c. 34, s. 6; 1980–81–82–83, c. 170, s. 25.

Annual and additional reports to the House of Commons

- 7. (1) The Auditor General shall report annually to the House of Commons and may make, in addition to any special report made under subsection 8(1) or 19(2) and the Commissioner's report under subsection 23(2), not more than three additional reports in any year to the House of Commons
 - (a) on the work of his office; and,
 - (b) on whether, in carrying on the work of his office, he received all the information and explanations he required.

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- (2) Each report of the Auditor General under subsection (1) shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the House of Commons, including any cases in which he has observed that
 - (a) accounts have not been faithfully and properly maintained or public money has not been fully accounted for or paid, where so required by law, into the Consolidated Revenue Fund;
 - (b) essential records have not been maintained or the rules and procedures applied have been insufficient to safeguard and control public property, to secure an effective check on the assessment, collection and proper allocation of the revenue and to ensure that expenditures have been made only as authorized;
 - (c) money has been expended other than for purposes for which it was appropriated by Parliament;
 - (d) money has been expended without due regard to economy or efficiency;
 - (e) satisfactory procedures have not been established to measure and report the effectiveness of programs, where such procedures could appropriately and reasonably be implemented; or
 - (f) money has been expended without due regard to the environmental effects of those expenditures in the context of sustainable development.

Submission of annual report to Speaker and tabling in the House of Commons

(3) Each annual report by the Auditor General to the House of Commons shall be submitted to the Speaker of the House of Commons on or before December 31 in the year to which the report relates and the Speaker of the House of Commons shall lay each such report before the House of Commons forthwith after receiving it or, if that House is not then sitting, on any of the first fifteen days on which that House is sitting after the Speaker receives it.

Notice of additional reports to Speaker and tabling in the House of Commons (4) Where the Auditor General proposes to make an additional report under subsection (1), the Auditor General shall send written notice to the Speaker of the House of Commons of the subject-matter of the proposed report.

Submission of additional reports to Speaker and tabling in the House of Commons (5) Each additional report of the Auditor General to the House of Commons made under subsection (1) shall be submitted to the House of Commons on the expiration of thirty days after the notice is sent pursuant to subsection (4) or any longer period that is specified in the notice and the Speaker of the House of Commons shall lay each such report before the House of Commons forthwith after receiving it or, if that House is not then sitting, on any of the first fifteen days on which that House is sitting after the Speaker receives it. 1976–77, c. 34, s. 7; 1994, c. 32, s. 1 and 2; 1995, c. 43, s. 3.

Special report to the House of Commons **8.** (1) The Auditor General may make a special report to the House of Commons on any matter of pressing importance or urgency that, in the opinion of the Auditor General, should not be deferred until the presentation of the next report under subsection 7(1).

Submission of reports to Speaker and tabling in the House of Commons (2) Each special report of the Auditor General to the House of Commons made under subsection (1) or 19(2) shall be submitted to the Speaker of the House of Commons and shall be laid before the House of Commons by the Speaker of the House of Commons forthwith after receipt thereof by him, or if that House is not then sitting, on the first day next thereafter that the House of Commons is sitting. 1976–77, c. 34, s. 8; 1994, c. 32, s. 3.

Idem

- 9. The Auditor General shall
 - (a) make such examination of the accounts and records of each registrar as he deems necessary, and such other examinations of a registrar's transactions as the Minister of Finance may require, and
 - (b) when and to the extent required by the Minister of Finance, participate in the destruction of any redeemed or cancelled securities or unissued reserves of securities authorized to be destroyed under the *Financial Administration Act*,

and he may, by arrangement with a registrar, maintain custody and control, jointly with that registrar, of cancelled and unissued securities. 1976–77, c. 34, s. 9.

Improper retention of public money

10. Whenever it appears to the Auditor General that any public money has been improperly retained by any person, he shall forthwith report the circumstances of the case to the President of the Treasury Board. 1976–77, c. 34, s.10.

Inquiry and report

11. The Auditor General may, if in his opinion such an assignment does not interfere with his primary responsibilities, whenever the Governor in Council so requests, inquire into and report on any matter relating to the financial affairs of Canada or to public property or inquire into and report on any person or organization that has received financial aid from the Government of Canada or in respect of which financial aid from the Government of Canada is sought. 1976–77, c. 34, s. 11.

Advisory powers

12. The Auditor General may advise appropriate officers and employees in the public service of Canada of matters discovered in his examinations and, in particular, may draw any such matter to the attention of officers and employees engaged in the conduct of the business of the Treasury Board. 1976–77, c. 34, s. 12.

Access to Information

Access to information

13. (1) Except as provided by any other Act of Parliament that expressly refers to this subsection, the Auditor General is entitled to free access at all convenient times to information that relates to the fulfilment of his responsibilities and he is also entitled to require and receive from members of the public service of Canada such information, reports and explanations as he deems necessary for that purpose.

Stationing of officers in departments

(2) In order to carry out his duties more effectively, the Auditor General may station in any department any person employed in his office, and the department shall provide the necessary office accommodation for any person so stationed.

Oath of secrecy

(3) The Auditor General shall require every person employed in his office who is to examine the accounts of a department or of a Crown corporation pursuant to this Act to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in that department or Crown corporation.

Inquiries

(4) The Auditor General may examine any person on oath on any matter pertaining to any account subject to audit by him and for the purposes of any such examination the Auditor General may exercise all the powers of a commissioner under Part I of the *Inquiries Act.* 1976–77, c. 34, s.13.

Reliance on audit reports of Crown corporations

14. (1) Notwithstanding subsections (2) and (3), in order to fulfil his responsibilities as the auditor of the accounts of Canada, the Auditor General may rely on the report of the duly appointed auditor of a Crown corporation or of any subsidiary of a Crown corporation.

Auditor General may request information

(2) The Auditor General may request a Crown corporation to obtain and furnish to him such information and explanations from its present or former directors, officers, employees, agents and auditors or those of any of its subsidiaries as are, in his opinion, necessary to enable him to fulfil his responsibilities as the auditor of the accounts of Canada.

Direction of the Governor in Council

(3) If, in the opinion of the Auditor General, a Crown corporation, in response to a request made under subsection (2), fails to provide any or sufficient information or explanations, he may so advise the Governor in Council, who may thereupon direct the officers of the corporation to furnish the Auditor General with such information and explanations and to give him access to those records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries access to which is, in the opinion of the Auditor General, necessary for him to fulfil his responsibilities as the auditor of the accounts of Canada. 1976–77, c. 34, s. 14.

Staff of the Auditor General

Officers, etc.

15. (1) Such officers and employees as are necessary to enable the Auditor General to perform his duties shall be appointed in accordance with the *Public Service Employment Act*.

Contract for professional services

(2) Subject to any other Act of Parliament or regulations made thereunder, but without the approval of the Treasury Board, the Auditor General may, within the total dollar limitations established for his office in appropriation Acts, contract for professional services.

Delegation to Auditor General

(3) The Auditor General may exercise and perform, in such manner and subject to such terms and conditions as the Public Service Commission directs, the powers, duties and functions of the Public Service Commission under the *Public Service Employment Act*, other than the powers, duties and functions of the Commission in relation to appeals under section 21 of that Act and inquiries under section 34 of that Act.

Suspension

(4) The Auditor General may suspend from the performance of his duty any person employed in his office. 1976–77, c. 34, s. 15; 1992, c. 54, s. 79.

Appointment of Commissioner

15.1 (1) The Auditor General shall, in accordance with the *Public Service Employment Act*, appoint a senior officer to be called the Commissioner of the Environment and Sustainable Development who shall report directly to the Auditor General.

Commissioner's duties

(2) The Commissioner shall assist the Auditor General in performing the duties of the Auditor General set out in this Act that relate to the environment and sustainable development. 1995, c. 43, s. 4.

Responsibility for personnel management

16. In respect of persons employed in his office, the Auditor General is authorized to exercise the powers and perform the duties and functions of the Treasury Board under the *Financial Administration Act* that relate to personnel management including the determination of terms and conditions of employment and the responsibility for employer and employee relations, within the meaning of paragraph 7(1)(e) and sections 11 to 13 of that Act. 1976–77, c. 34, s.16.

Classification standards

17. Classification standards may be prepared for persons employed in the office of the Auditor General to conform with the classifications that the Auditor General recognizes for the purposes of that office. 1976–77, c. 34, s. 18.

Delegation

18. The Auditor General may designate a senior member of his staff to sign on his behalf any opinion that he is required to give and any report, other than his annual report on the financial statements of Canada made pursuant to section 64 of the *Financial Administration Act* and his reports to the House of Commons under this Act, and any member so signing an opinion or report shall indicate beneath his signature his position in the office of the Auditor General and the fact that he is signing on behalf of the Auditor General. 1976–77, c. 34, s. 19.

Estimates

Estimates

19. (1) The Auditor General shall annually prepare an estimate of the sums that will be required to be provided by Parliament for the payment of the salaries, allowances and expenses of his office during the next ensuing fiscal year.

Special report

(2) The Auditor General may make a special report to the House of Commons in the event that amounts provided for his office in the estimates submitted to Parliament are, in his opinion, inadequate to enable him to fulfil the responsibilities of his office. 1976–77, c. 34, s. 20.

Appropriation allotments

20. The provisions of the *Financial Administration Act* with respect to the division of appropriations into allotments do not apply in respect of appropriations for the office of the Auditor General. 1976–77, c. 34, s. 21.

Audit of the Office of the Auditor General

Audit of the office of the Auditor General

21. (1) A qualified auditor nominated by the Treasury Board shall examine the receipts and disbursements of the office of the Auditor General and shall report annually the outcome of his examinations to the House of Commons.

Submission of reports and tabling

(2) Each report referred to in subsection (1) shall be submitted to the President of the Treasury Board on or before the 31st day of December in the year to which the report relates and the President of the Treasury Board shall lay each such report before the House of Commons within fifteen days after receipt thereof by him or, if that House is not then sitting, on any of the first fifteen days next thereafter that the House of Commons is sitting. 1976–77, c. 34, s. 22.

Sustainable Development

Purpose

- 21.1 The purpose of the Commissioner is to provide sustainable development monitoring and reporting on the progress of category I departments towards sustainable development, which is a continually evolving concept based on the integration of social, economic and environmental concerns, and which may be achieved by, among other things,
 - (a) the integration of the environment and the economy;
 - (b) protecting the health of Canadians;
 - (c) protecting ecosystems;
 - (d) meeting international obligations;
 - (e) promoting equity;
 - (f) an integrated approach to planning and making decisions that takes into account the environmental and natural resource costs of different economic options and the economic costs of different environmental and natural resource options;
 - (g) preventing pollution; and
 - (h) respect for nature and the needs of future generations. 1995, c. 43, s. 5.

Petitions received

22. (1) Where the Auditor General receives a petition in writing from a resident of Canada about an environmental matter in the context of sustainable development that is the responsibility of a category I department, the Auditor General shall make a record of the petition and forward the petition within fifteen days after the day on which it is received to the appropriate Minister for the department.

Acknowledgement to be sent

(2) Within fifteen days after the day on which the Minister receives the petition from the Auditor General, the Minister shall send to the person who made the petition an acknowledgement of receipt of the petition and shall send a copy of the acknowledgement to the Auditor General.

Minister to respond

- (3) The Minister shall consider the petition and send to the person who made it a reply that responds to it, and shall send a copy of the reply to the Auditor General, within
 - (a) one hundred and twenty days after the day on which the Minister receives the petition from the Auditor General; or
 - (b) any longer time, where the Minister personally, within those one hundred and twenty days, notifies the person who made the petition that it is not possible to reply within those one hundred and twenty days and sends a copy of that notification to the Auditor General.

Multiple petitioners

(4) Where the petition is from more that one person, it is sufficient for the Minister to send the acknowledgement and reply, and the notification, if any, to one or more of the petitioners rather than to all of them. 1995, c. 43, s. 5.

Duty to monitor

- 23. (1) The Commissioner shall make any examinations and inquiries that the Commissioner considers necessary in order to monitor
 - (a) the extent to which category I departments have met the objectives, and implemented the plans, set out in their sustainable development strategies laid before the House of Commons under section 24; and
 - (b) the replies by Ministers required by subsection 22(3).

Commissioner's report

- (2) The Commissioner shall, on behalf of the Auditor General, report annually to the House of Commons concerning anything that the Commissioner considers should be brought to the attention of that House in relation to environmental and other aspects of sustainable development, including
 - (a) the extent to which category I departments have met the objectives, and implemented the plans, set out in their sustainable development strategies laid before that House under section 24;
 - (b) the number of petitions recorded as required by subsection 22(1), the subject-matter of the petitions and their status; and
 - (c) the exercising of the authority of the Governor in Council under any of subsections 24(3) to (5).

Submission and tabling of report

(3) The report required by subsection (2) shall be submitted to the Speaker of the House of Commons and shall be laid before that House by the Speaker on any of the next fifteen days on which that House is sitting after the Speaker receives it. 1995, c. 43, s. 5.

Strategies to be tabled

- 24. (1) The appropriate Minister for each category I department shall cause the department to prepare a sustainable development strategy for the department and shall cause the strategy to be laid before the House of Commons
 - (a) within two years after this subsection comes into force; or
 - (b) in the case of a department that becomes a category I department on a day after this subsection comes into force, before the earlier of the second anniversary of that day and a day fixed by the Governor in Council pursuant to subsection (4).

Updated strategies to be tabled

(2) The appropriate Minister for the category I department shall cause the department's sustainable development strategy to be updated at least every three years and shall cause each updated strategy to be laid before the House of Commons on any of the next fifteen days on which that House is sitting after the strategy is updated.

Governor in Council direction

(3) The Governor in Council may, on that recommendation of the appropriate Minister for a department not named in Schedule I to the *Financial Administration Act*, direct that the requirements of subsections (1) and (2) apply in respect of the department.

Date fixed by Governor in Council

(4) On the recommendation of the appropriate Minister for a department that becomes a category I department after this subsection comes into force, the Governor in Council may, for the purpose of subsection (1), fix the day before which the sustainable development strategy of the department shall be laid before the House of Commons.

Regulations

(5) The Governor in Council may, on the recommendation of the Minister of the Environment, make regulations prescribing the form in which sustainable development strategies are to be prepared and the information required to be contained in them. 1995, c. 43, s. 5.

Appendix B Financial Administration Act

R.S., c. F-11 Extracts from Part X

CROWN CORPORATIONS Financial Management

Books and systems

- 131. (1) Each parent Crown corporation shall cause
 - (a) books of account and records in relation thereto to be kept, and
 - (b) financial and management control and information systems and management practices to be maintained.
 - in respect of itself and each of its wholly-owned subsidiaries, if any.

Idem

- (2) The books, records, systems and practices referred to in subsection (1) shall be kept and maintained in such manner as will provide reasonable assurance that
 - (a) the assets of the corporation and each subsidiary are safeguarded and controlled;
 - (b) the transactions of the corporation and each subsidiary are in accordance with this Part, the regulations, the charter and by-laws of the corporation or subsidiary and any directive given to the corporation; and
 - (c) the financial, human and physical resources of the corporation and each subsidiary are managed economically and efficiently and the operations of the corporation and each subsidiary are carried out effectively.

Internal audit

(3) Each parent Crown corporation shall cause internal audits to be conducted, in respect of itself and each of its wholly-owned subsidiaries, if any, to assess compliance with subsections (1) and (2), unless the Governor in Council is of the opinion that the benefits to be derived from those audits do not justify their cost.

Financial statements

(4) Each parent Crown corporation shall cause financial statements to be prepared annually, in respect of itself and its wholly-owned subsidiaries, if any, in accordance with generally accepted accounting principles as supplemented or augmented by regulations made pursuant to subsection (6) if any.

Form of financial statements

(5) The financial statements of a parent Crown corporation and of a wholly-owned subsidiary shall be prepared in a form that clearly sets out information according to the major businesses or activities of the corporation or subsidiary.

Regulations

(6) The Treasury Board may, for the purposes of subsection (4), make regulations respecting financial statements either generally or in respect of any specified parent Crown corporation or any parent Crown corporation of a specified class, but such regulations shall, in respect of the preparation of financial statements, only supplement or augment generally accepted accounting principles. 1991, c. 24, s. 41.

Auditor's Reports

Annual auditor's report

- **132.** (1) Each parent Crown corporation shall cause an annual auditor's report to be prepared, in respect of itself and its wholly-owned subsidiaries, if any, in accordance with the regulations, on
 - (a) the financial statements referred to in section 131 and any revised financial statement referred to in subsection 133(3); and
 - (b) any quantitative information required to be audited pursuant to subsection (5).

Contents

- (2) A report under subsection (1) shall be addressed to the appropriate Minister and shall
 - (a) include separate statements, whether in the auditor's opinion,
 - (i) the financial statements are presented fairly in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding year,
 - (ii) the quantitative information is accurate in all material respects and, if applicable, was prepared on a basis consistent with that of the preceding year, and
 - (iii) the transactions of the corporation and of each subsidiary that have come to his notice in the course of the auditor's examination for the report were in accordance with this Part, the regulations, the charter and by-laws of the corporation or subsidiary and any directive given to the corporation; and
 - (b) call attention to any other matter falling within the scope of the auditor's examination for the report that, in his opinion, should be brought to the attention of Parliament.

Regulations

(3) The Treasury Board may make regulations prescribing the form and manner in which the report referred to in subsection (1) is to be prepared.

Separate reports

(4) Notwithstanding any other provision of this Part, the auditor of a parent Crown corporation may prepare separate annual auditor's reports on the statements referred to in paragraph (1)(a) and on the information referred to in paragraph (1)(b) if, in the auditor's opinion, separate reports would be more appropriate.

Audit of quantitative information

(5) The Treasury Board may require that any quantitative information required to be included in a parent Crown corporation's annual report pursuant to subsection 150(3) be audited.

Other reports

(6) The auditor of a parent Crown corporation shall prepare such other reports respecting the corporation or any wholly-owned subsidiary of the corporation as the Governor in Council may require.

Examination

(7) An auditor shall make such examination as he considers necessary to enable him to prepare a report under subsection (1) or (6).

Reliance on internal audit

(8) An auditor shall, to the extent he considers practicable, rely on any internal audit of the corporation being audited that is conducted pursuant to subsection 131(3). 1991, c. 24, s.42.

Errors and omissions

133. (1) A director or officer of a Crown corporation shall forthwith notify the auditor and the audit committee of the corporation, if any, of any error or omission of which the director or officer becomes aware in a financial statement that the auditor or a former auditor has reported on or in a report prepared by the auditor or a former auditor pursuant to section 132.

Idem

(2) Where an auditor or former auditor of a Crown corporation is notified or becomes aware of any error or omission in a financial statement that the auditor or former auditor has reported on or in a report prepared by the auditor or former auditor pursuant to section 132, he shall forthwith notify each director of the corporation of the error or omission if he is of the opinion that the error or omission is material.

Correction

(3) Where an auditor or former auditor of a Crown corporation notifies the directors of an error or omission in a financial statement or report pursuant to subsection (2), the corporation shall prepare a revised financial statement or the auditor or former auditor shall issue a correction to the report, as the case may be, and a copy thereof shall be given to the appropriate Minister. 1984, c. 31, s. 11.

Auditors

Appointment of auditor

134. (1) The auditor of a parent Crown corporation shall be appointed annually by the Governor in Council, after the appropriate Minister has consulted the board of directors of the corporation, and may be removed at any time by the Governor in Council, after the appropriate Minister has consulted the board.

Auditor General

(2) On and after January 1, 1989, the Auditor General of Canada shall be appointed by the Governor in Council as the auditor, or a joint auditor, of each parent Crown corporation named in Part I of Schedule III, unless the Auditor General waives the requirement that he be so appointed.

Idem

(3) Subsections (1) and (2) do not apply in respect of any parent Crown corporation the auditor of which is specified by any other Act of Parliament to be the Auditor General of Canada, but the Auditor General is eligible to be appointed the auditor, or a joint auditor, of a parent Crown corporation pursuant to subsection (1) and section 135 does not apply to him.

Exception

(4) Notwithstanding subsection (1), where the report referred to in subsection 132(1) is to be prepared in respect of a wholly-owned subsidiary separately, the board of directors of the parent Crown corporation that wholly owns the subsidiary shall, after consultation with the board of directors of the subsidiary, appoint the auditor of the subsidiary, and subsections (6) and sections 135 to 137 apply in respect of that auditor as though the references therein to a parent Crown corporation were references to the subsidiary.

Criteria for appointment

(5) The Governor in Council may make regulations prescribing the criteria to be applied in selecting an auditor for appointment pursuant to subsection (1) or (4).

Re-appointment

(6) An auditor of a parent Crown corporation is eligible for re-appointment on the expiration of his appointment.

Continuation in office

(7) Notwithstanding subsection (1), if an auditor of a parent Crown corporation is not appointed to take office on the expiration of the appointment of an incumbent auditor, the incumbent auditor continues in office until his successor is appointed. 1984, c.31, s.11.

Persons not eligible

135. (1) A person is disqualified from being appointed or re-appointed or continuing as an auditor of a parent Crown corporation pursuant to section 134 if that person is not independent of the corporation, any of its affiliates, or the directors or officers of the corporation or any of its affiliates.

Independence

- (2) For the purpose of this section,
 - (a) independence is a question of fact; and
 - (b) a person is deemed not to be independent if that person or any of his business partners
 - (i) is a business partner, director, officer or employee of the parent Crown corporation or any of its affiliates, or a business partner of any director, officer or employee of the corporation or any of its affiliates,
 - (ii) beneficially owns or controls, directly or indirectly through a trustee, legal representative, agent or other intermediary, a material interest in the shares or debt of the parent Crown corporation or any of its affiliates, or
 - (iii) has been a receiver, receiver-manager, liquidator or trustee in bankruptcy of the parent Crown corporation or any of its affiliates within two years of his proposed appointment as auditor of the corporation.

Resignation

(3) An auditor of a parent Crown corporation who becomes disqualified under this section shall resign forthwith after becoming aware of his disqualification. 1984, c.31, s.11.

Qualifications preserved

136. Nothing in sections 134 and 135 shall be construed as empowering the appointment, reappointment or continuation in office as an auditor of a parent Crown corporation of any person who does not meet any qualifications for such appointment, re-appointment or continuation established by any other Act of Parliament. 1984, c. 31, s. 11.

Resignation

137. A resignation of an auditor of a parent Crown corporation becomes effective at the time the corporation receives a written resignation from the auditor or at the time specified in the resignation, whichever is later. 1984, c. 31, s. 11.

Special Examination

Special examination

138. (1) Each parent Crown corporation shall cause a special examination to be carried out in respect of itself and its wholly-owned subsidiaries, if any, to determine if the systems and practices referred to in paragraph 131(1)(b) were, in the period under examination, maintained in a manner that provided reasonable assurance that they met the requirements of paragraphs 131(2)(a) and (c).

Time for examination

(2) A special examination shall be carried out at least once every five years and at such additional times as the Governor in Council, the appropriate Minister or the board of directors of the corporation to be examined may require.

Plan

(3) Before an examiner commences a special examination, he shall survey the systems and practices of the corporation to be examined and submit a plan for the examination, including a statement of the criteria to be applied in the examination, to the audit committee of the corporation, or if there is no audit committee, to the board of directors of the corporation.

Resolution of disagreements

- (4) Any disagreement between the examiner and the audit committee or board of directors of a corporation with respect to a plan referred to in subsection (3) may be resolved
 - (a) in the case of a parent Crown corporation, by the appropriate Minister; and
 - (b) in the case of a wholly-owned subsidiary, by the parent Crown corporation that wholly owns the subsidiary.

Reliance on internal audit

(5) An examiner shall, to the extent he considers practicable, rely on any internal audit of the corporation being examined conducted pursuant to subsection 131(3). 1984, c.31, s.11.

Report

139. (1) An examiner shall, on completion of the special examination, submit a report on his findings to the board of directors of the corporation examined.

Contents

- (2) The report of an examiner under subsection (1) shall include
 - (a) a statement, whether in the examiner's opinion, with respect to the criteria established pursuant to subsection 138(3), there is reasonable assurance that there are no significant deficiencies in the systems and practices examined; and
 - (b) a statement of the extent to which the examiner relied on internal audits. 1984, c.31, s.11.

Special report of appropriate Minister

140. Where the examiner of a parent Crown corporation, or a wholly owned subsidiary of a parent Crown corporation, named in Part I of Schedule III is of the opinion that his report under subsection 139(1) contains information that should be brought to the attention of the appropriate Minister, he shall, after consultation with the board of directors of the corporation, or with the board of the subsidiary and corporation, as the case may be, report that information to the Minister and furnish the board or boards with a copy of the report. 1984, c.31, s.11.

Special report to Parliament

141. Where the examiner of a parent Crown corporation, or a wholly-owned subsidiary of a parent Crown corporation, named in Part I of Schedule III of the opinion that his report under subsection 139(1) contains information that should be brought to the attention of Parliament, he shall, after consultation with the appropriate Minister and the board of directors of the corporation, or with the boards of the subsidiary and corporation, as the case may be, prepare a report thereon for inclusion in the next annual report of the corporation and furnish the board or boards, the appropriate Minister and the Auditor General of Canada with copies of the report. 1984, c.31, s.11.

Examiner

142. (1) Subject to subsections (2) and (3), a special examination referred to in section 138 shall be carried out by the auditor of a parent Crown corporation.

Idem

(2) Where, in the opinion of the Governor in Council, a person other than the auditor of a parent Crown corporation should carry out a special examination, the Governor in Council may, after the appropriate Minister has consulted the board of directors of the corporation, appoint an auditor who is qualified for the purpose to carry out the examination in lieu of the auditor of the corporation and may, after the appropriate Minister has consulted the board, remove that qualified auditor at any time.

Exception

(3) Where a special examination is to be carried out in respect of a wholly-owned subsidiary separately, the board of directors of the parent Crown corporation that wholly owns the subsidiary shall, after consultation with the board of directors of the subsidiary, appoint the qualified auditor who is to carry out the special examination.

Applicable provisions

(4) Subject to subsection (5), sections 135 and 137 apply in respect of an examiner as though the references therein to an auditor were references to an examiner.

Auditor General eligible

(5) The Auditor General of Canada is eligible to be appointed an examiner and section 135 does not apply to the Auditor General of Canada in respect of such an appointment. 1984, c. 31, s. 11.

Consultation with Auditor General

Consultation with Auditor General

143. The auditor or examiner of a Crown corporation may at any time consult the Auditor General of Canada on any matter relating to his audit or special examination and shall consult the Auditor General with respect to any matter that, in the opinion of the auditor or examiner, should be brought to the attention of Parliament pursuant to paragraph 132(2)(b) or section 141. 1984, c. 31, s. 11.

Right to Information

Right to Information

- **144.** (1) On the demand of the auditor or examiner of a Crown corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such
 - (a) information and explanations, and
 - (b) access to records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries

as the auditor or examiner considers necessary to enable him to prepare any report as required by this Division and that the directors, officers, employees or agents are reasonably able to furnish.

Idem

- (2) On the demand of the auditor or examiner of a Crown corporation, the directors of the corporation shall
 - (a) obtain from the present or former directors, officers, employees or agents of any subsidiary of the corporation such information and explanations as the auditor or examiner considers necessary to enable him to prepare any report as required by this Division and that the present or former directors, officers, employees or agents are reasonably able to furnish; and
 - (b) furnish the auditor or examiner with the information and explanations so obtained.

Reliance on reports

(3) An auditor or examiner of a Crown corporation may reasonably rely on any report of any other auditor or examiner. 1984, c. 31, s. 11.

Policy

Restriction

- **145.** Nothing in this Part or the regulations shall be construed as authorizing the auditor or examiner of a Crown corporation to express any opinion on the merits of matters of policy, including the merits of
 - (a) the objects or purposes for which the corporation is incorporated, or the restrictions on the businesses or activities that it may carry on, as set out in its charter;
 - (b) the objectives of the corporation; and
 - (c) any business or policy decision of the corporation or of the Government of Canada. 1984, c. 31, s. 11.

Qualified Privilege

Qualified privilege

146. Any oral or written statement or report made under this Part or the regulations by the auditor or a former auditor, or the examiner or a former examiner, of a parent Crown corporation or a wholly-owned subsidiary has qualified privilege. 1991, c. 24, s. 43.

Costs

Cost of audit and examination

147. (1) The amounts paid to an auditor or examiner of a Crown corporation for preparing any report under section 132, 139, 140 or 141 shall be reported to the President of the Treasury Board.

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(2) Where the Auditor General of Canada is the auditor or examiner of a Crown corporation, the costs incurred by him in preparing any report under section 132, 139, 140 or 141 shall be disclosed in the next annual report of the Auditor General and be paid out of the moneys appropriated for his office. 1984, c. 31, s. 11.

Audit Committee

Audit committee

148. (1) Each parent Crown corporation that has four or more directors shall establish an audit committee composed of not less than three directors of the corporation, the majority of whom are not officers or employees of the corporation or any of its affiliates.

Idem

(2) In the case of a parent Crown corporation that has less than four directors, the board of directors of the corporation constitutes the audit committee of the corporation and shall perform the duties and functions assigned to an audit committee by any provision of this Part and the provision shall be construed accordingly.

Duties

- (3) The audit committee of a parent Crown corporation shall
 - (a) review, and advise the board of directors with respect to, the financial statements that are to be included in the annual report of the corporation;
 - (b) oversee any internal audit of the corporation that is conducted pursuant to subsection 131(3):
 - (c) review, and advise the board of directors with respect to, the annual auditor's report of the corporation referred to in subsection 132(1);
 - (d) in the case of a corporation undergoing a special examination, review, and advise the board of directors with respect to, the plan and reports referred to in sections 138 to 141; and
 - (e) perform such other functions as are assigned to it by the board of directors or the charter or by-laws of the corporation.

Auditor's or examiner's attendance

(4) The auditor and any examiner of a parent Crown corporation are entitled to receive notice of every meeting of the audit committee and, at the expense of the corporation, to attend and be heard at each meeting; and, if so requested by a member of the audit committee, the auditor or examiner shall attend any or every meeting of the committee held during his term of office.

Calling meeting

(5) The auditor or examiner of a parent Crown corporation or a member of the audit committee may call a meeting of the committee.

Wholly-owned subsidiary

- (6) Where the report referred to in subsection 132(1) is to be prepared in respect of a wholly-owned subsidiary separately, subsections (1) to (5) apply, with such modifications as the circumstances require, in respect of the subsidiary as though
 - (a) the references in subsections (1) to (5) to a parent Crown corporation were references to the subsidiary; and
 - (b) the reference in paragraph (3)(a) to the annual report of the corporation were a reference to the annual report of the parent Crown corporation that wholly owns the subsidiary. 1984, c. 31, s. 11.

Reports

Accounts, etc. to Treasury Board or appropriate Minister

149. (1) A parent Crown corporation shall provide the Treasury Board or the appropriate Minister with such accounts, budgets, returns, statements, documents, records, books, reports or other information as the Board or appropriate Minister may require.

Reports on material developments

(2) The chief executive officer of a parent Crown corporation shall, as soon as reasonably practicable, notify the appropriate Minister, the President of the Treasury Board and any director of the corporation not already aware thereof of any financial or other developments that, in the chief executive officer's opinion, are likely to have a material effect on the performance of the corporation, including its wholly-owned subsidiaries, if any, relative to the corporation's objectives or on the corporation's requirements for funding.

Reports on whollyowned subsidiaries

(3) Each parent Crown corporation shall forthwith notify the appropriate Minister and the President of the Treasury Board of the name of any corporation that becomes or ceases to be a wholly-owned subsidiary of the corporation. 1984, c. 31, s. 11.

Annual report

150. (1) Each parent Crown corporation shall, as soon as possible, but in any case within three months, after the termination of each financial year submit an annual report on the operations of the corporation in that year concurrently to the appropriate Minister and the President of the Treasury Board, and the appropriate Minister shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after he receives it.

Reference to committee

(2) An annual report laid before Parliament pursuant to subsection (1) stands permanently referred to such committee of Parliament as may be designated or established to review matters relating to the businesses and activities of the corporation submitting the report.

Form and contents

- (3) The annual report of a parent Crown corporation shall include
 - (a) the financial statements of the corporation referred to in section 131,
 - (b) the annual auditor's report referred to in subsection 132(1),
 - (c) a statement on the extent to which the corporation has met its objectives for the financial year.
 - (d) such quantitative information respecting the performance of the corporation, including its wholly-owned subsidiaries, if any, relative to the corporation's objectives as the Treasury Board may require to be included in the annual report, and
 - (e) such other information as is required by this or any other Act of Parliament, or by the appropriate Minister, the President of the Treasury Board or the Minister of Finance, to be included in the annual report,
 - and shall be prepared in a form that clearly sets out information according to the major businesses or activities of the corporation and its wholly-owned subsidiaries, if any.

Idem

(4) In addition to any other requirements under this Act or any other Act of Parliament, the Treasury Board may, by regulation, prescribe the information to be included in annual reports and the form in which such information is to be prepared. 1991, c. 24, s. 49.

Annual consolidated report

151. (1) The President of the Treasury Board shall, not later than December 31 of each year, cause a copy of an annual consolidated report on the businesses and activities of all parent Crown corporations for their financial years ending on or before the previous July 31 to be laid before each House of Parliament.

Reference to committee

(2) An annual consolidated report laid before Parliament pursuant to subsection (1) stands permanently referred to such committee of Parliament as may be designated or established to review matters relating to Crown corporations.

Contents

- (3) The annual consolidated report referred to in subsection (1) shall include
 - (a) a list naming, as of a specified date, all Crown corporations and all corporations of which any shares are held by, on behalf of or in trust for the Crown or any Crown corporation;
 - (b) employment and financial data, including aggregate borrowings of parent Crown corporations; and
 - (c) such other information as the President of the Treasury Board may determine. 1984, c.31, s. 11.

Annual report

152. (1) The President of the Treasury Board shall, not later than December 31 of each year, cause to be laid before each House of Parliament a copy of a report indicating the summaries and annual reports that under this Part were to be laid before that House by July 31 in that year, the time at, before or within which they were to be laid and the time they were laid before that House.

Attest

(2) The accuracy of the information contained in the report referred to in subsection (1) shall be attested by the Auditor General of Canada in the Auditor General's report to the House of Commons. 1991, c. 24, s. 44.

Appendix C Reports of the Standing Committee on Public Accounts to the Rouse of Commons, 2002-03

The following reports are available on the Web site of Canada's Parliament (www.parl.gc.ca).

37th Parliament, 2nd Session

- Report 1—Chapter 13 (Other Audit Observations—Department of Finance) of the December 2001 Report of the Auditor General of Canada. 37th Parliament / 1st Session (Tabled in the House November 26, 2002)
- Report 2—Chapter 13 (Other Audit Observations—Human Resources Development Canada and the Canada Employment Insurance Commission) of the December 2001 Report of the Auditor General of Canada. 37th Parliament / 1st Session (Tabled in the House November 26, 2002)
- Report 3—Chapter 13 (Other Audit Observations—Parc Downsview Park Inc.) of the December 2001 Report of the Auditor General of Canada. (Tabled in the House December 3, 2002)
- Report 4—Chapter 1 (Financial Information Strategy: Infrastructure Readiness) of the December 2001 Report of the Auditor General of Canada; and Chapter 7 (Strategies to Implement Modern Comptrollership) of the April 2002 Report of the Auditor General of Canada. (Tabled in the House December 3, 2002)
- Report 5 Chapter 4 (Voted Grants and Contributions: Government-Wide Management) and Chapter 5 (Voted Grants and Contributions: Program Management) of the December 2001 Report of the Auditor General of Canada. (Tabled in the House December 3, 2002)
- Report 6—Chapter 6 (Atlantic Canada Opportunities Agency—Economic Development) of the December 2001 Report of the Auditor General of Canada. (Tabled in the House December 12, 2002)
- Report 7—Chapter 8 (Canada Customs and Revenue Agency—Managing the Risks of Non-Compliance for Commercial Shipments Entering Canada) of the December 2001 Report of the Auditor General of Canada. (Tabled in the House December 12, 2002)
- Report 8—Chapter 8 (Other Audit Observations—Health Canada and Public Works and Government Services Canada) of the April 2002 Report of the Auditor General of Canada. (Tabled in the House December 12, 2002)
- **Report 9**—Response to audit findings reported in Chapter 10 (Canadian Human Rights Commission—Human Rights Tribunal Panel) of the September 1998 Report of the Auditor General of Canada. (Tabled in the House January 30, 2003)
- Report 10—Report of the Auditor General of Canada dated May 8, 2002, to the Minister of Public Works and Government Services on Three Contracts Awarded to Groupaction Communications. (Tabled in the House March 20, 2003)
- Report 11—Main Estimates 2003-2004. (Tabled in the House April 10, 2003)
- Report 12—Public Accounts of Canada 2001-2002. (Tabled in the House April 10, 2003)
- Report 13—Chapter 7 (Canadian Space Agency—Implementing the Canadian Space Program) of the December 2002 Report of the Auditor General of Canada. (Tabled in the House April 10, 2003)
- Report 14—Chapter 1 (Placing the Public's Money Beyond Parliament's Reach) of the April 2002 Report of the Auditor General of Canada. (Tabled in the House May 14, 2003)
- Report 15—Chapter 2 (Fisheries and Oceans Canada—Contributing to Safe and Efficient Marine Navigation) of the December 2002 Report of the Auditor General of Canada. (Tabled in the House May 14, 2003)
- Report 16—Chapter 1 (Human Resources Development Canada—The Integrity of the Social Insurance Number) of the September 2002 Report of the Auditor General of Canada. (Tabled in the House June 6, 2003)

- **Report 17**—Public Accounts of Canada 2001-2002, Volume II, Part II, Section 3 (Losses of Public Money or Property). (Tabled in the House June 6, 2003)
- **Report 18**—Chapter 4 (National Defence—NATO Flying Training in Canada) of the September 2002 Status Report of the Auditor General of Canada. (Tabled in the House June 6, 2003)
- Report 19—Chapter 8 (Public Works and Government Services Canada—Acquisition of Office Space) of the December 2002 Report of the Auditor General of Canada. (Tabled in the House June 6, 2003)
- Report 20—Chapter 6 (Federal Government Support to First Nations—Housing on Reserves) of the April 2003 Report of the Auditor General of Canada. (Tabled in the House October 1st, 2003)
- **Report 21**—Chapter 6 (Reform of Classification and Job Evaluation in the Federal Public Service) of the May 2003 Status Report of the Auditor General of Canada. (Tabled in the House October 1st, 2003)
- **Report 22** Supplementary Estimates (A) 2003-2004: Vote 20a Auditor General, under Finance. (Tabled in the House October 8, 2003)
- **Report 23**—Chapter 7 (National Defence Environmental Stewardship of Military Training and Test Areas) of the April 2003 Report of the Auditor General of Canada. (Tabled in the House October 22, 2003)

Appendix D. Report on the mount of the President of the Treasury Board's record to Parliament.

Tablings in Parliament for Parent Crown Corporations: Annual Reports and Summaries of Corporate Plans and Budgets

The Financial Administration Act requires the President of the Treasury Board to lay before each House of Parliament a report concerning the timing of tabling, by appropriate ministers, of annual reports and summaries of corporate plans and budgets of Crown corporations subject to the reporting provisions of Part X of the Act. The Act also requires the Auditor General to audit the accuracy of the report and to present the results of this audit in her annual report to the House of Commons.

The report on tablings is the responsibility of the President of the Treasury Board and is included in her annual report to Parliament, *Crown Corporations and Other Corporate Interests of Canada*, which is required to be tabled not later than 31 December (not tabled for 2003 at time of going to press). The report on these tablings allows Parliament to hold the appropriate ministers (and, ultimately, the Crown corporations) accountable for providing, within the relevant statutory deadlines, the information required under the *Financial Administration Act*. Accordingly, the report is required to indicate the time at, before, or within which the annual reports and the summaries of corporate plans, capital budgets, and operating budgets (and amendments to them) were required to be tabled before each House during the reporting period, and the time they were actually tabled.

Auditor's report

To the House of Commons

As required by subsection 152(2) of the *Financial Administration Act*, I have audited the information contained in the President of the Treasury Board's report on tablings for the year ended 31 July 2003. The report on tablings is the responsibility of the President of the Treasury Board. My responsibility is to express an opinion on the report on tablings based on my audit.

I conducted my audit in accordance with the standards for assurance engagements established by the Canadian Institute of Chartered Accountants. Those standards require that I plan and perform an audit to obtain reasonable assurance as to whether the report on tablings is free of significant misstatement. My audit included examining evidence supporting the deadlines, the actual tabling dates, and other disclosures provided in the report on tablings.

In my opinion, the information contained in the report on tablings is accurate in all significant respects, in accordance with the description of the Deadlines for Tabling in Parliament that accompanies the report.

The following paragraph is intended to highlight certain information that I believe may be of interest to parliamentarians and that is not highlighted specifically or disclosed in the report on tablings in its current format. This information indicates, that compared with last year, the timeliness of corporate reporting has improved.

This year's report on tablings identifies 72 documents that were tabled late. This represents a decrease of 97 over last year in the number of late tablings. In addition, the report does not disclose that in 18 instances (compared with 33 in 2002), corporate plans were approved by the Governor in Council after the beginning of the period covered by the plans. In 14 of those instances (18 in 2002), the plans were approved more than two months after the beginning of the period covered by the plan.

Richard Flageole, FCA Assistant Auditor General

for the Auditor General of Canada

Ilageole

Ottawa, Canada October 30, 2003

Appendix E Costs of Crown corporation audits conducted by the Office of the Amistor General of Canada

Section 147 of the *Financial Administration Act* requires that the Office disclose the costs of preparing audit reports on all Crown corporations other than those exempted under section 85 of the Act (Exhibit E.1). An audit report includes an opinion on a corporation's financial statements and on its compliance with specified authorities. It may also include reporting on any other matter deemed significant.

The Office is also required by section 68 of the *Broadcasting Act* to report the cost of any audit report on the Canadian Broadcasting Corporation. For the fiscal year ended 31 March 2003, the full cost of the annual audit report was \$694,422.

The objective of a special examination is to determine whether a corporation's financial and management control and information systems and its management practices provide reasonable assurance that:

- · assets have been safeguarded and controlled;
- · financial, human, and physical resources have been managed economically and efficiently; and
- · operations have been carried out effectively.

In 2002-2003 the Office completed the special examination of six Crown Corporations. The costs were:

Atomic Energy of Canada Limited	\$868,430
Great Lakes Pilotage Authority	264,447
International Development Research Centre	909,579
National Capital Commission	408,526
Farm Credit Corporation	576,323
Atlantic Pilotage Authority	186,349

Exhibit E.1 Cost of preparing annual audit reports for fiscal years ending on or before 31 March 2003

Crown Corporation	Fiscal year ended	Cost
Atlantic Pilotage Authority	31.12.02	\$99,877
Atomic Energy of Canada Limited (joint auditor)	31.03.03	234,907
Blue Water Bridge Authority	31.08.03	59,397
Business Development Bank of Canada (joint auditor)	31.03.03	339,317
Canada Deposit Insurance Corporation	31.03.03	142,351
Canada Development Investment Corporation (joint auditor)	31.12.02	71,986
Canada Lands Company Limited (joint auditor)	31.03.03	267,111
Canada Mortgage and Housing Corporation (joint auditor)	31.12.02	451,936
Canadian Commercial Corporation	31.03.03	201,261
Canadian Dairy Commission	31.07.02	85,690
Canadian Museum of Civilization	31.03.03	111,600
Canadian Tourism Commission	31.12.02	217,651
Canadian Museum of Nature	31.03.03	105,631
Cape Breton Development Corporation	31.03.03	183,988
Cape Breton Growth Fund	31.03.03	42,888
Canadian Air Transportation Security Authority	31.03.03	267,143
Canadian Transport Accident Investigation Board	31.03.03	52,069
Defence Construction (1951) Limited	31.03.03	105,532
Enterprise Cape Breton Corporation	31.03.03	135,029
Export Development Canada	31.12.02	636,738
Farm Credit Canada	31.03.03	398,813
Federal Bridge Corporation Ltd.	31.03.03	32,213
Freshwater Fish Marketing Corporation	30.04.02	99,603
Great Lakes Pilotage Authority	31.12.02	106,765
Laurentian Pilotage Authority	31.12.02	103,230
Jacques Cartier and Champlain Bridges Incorporated	31.03.03	69,485
Marine Atlantic Inc.	31.12.02	331,434
National Capital Commission	31.03.03	254,877
National Gallery of Canada	31.03.03	113,645
National Museum of Science and Technology	31.03.03	99,612
Old Port of Montreal Corporation Inc.	31.03.03	264,318
Pacific Pilotage Authority	31.12.02	46,425
Queens Quay West Land Corporation	31.03.03	51,280
Royal Canadian Mint	31.12.02	579,497
Ridley Terminals Inc.	31.12.02	74,155
Seaway International Bridge Corporation Ltd.	31.12.02	66,734
Standards Council of Canada	31.03.03	77,858
VIA Rail Canada Inc. (joint auditor)	31.12.02	279,544

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